SENATE.

WEDNESDAY, *January 20, 1909.*

Prayer by Rev. Joseph C. Hartzell, Bishop for Africa, Methodist Episcopal Church.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on the request of Mr. BURROWS, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. Browning, its Chief Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 26203. An act making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1910, and for other purposes; and

H. R. 26399. An act making appropriations to supply urgent deficiencies in the appropriations for the fiscal year ending June 30, 1909.

The message also returned to the Senate, in compliance with its request, the bill (S. 7396) for the exchange of certain lands situated in the Fort Douglas Military Reservation, State of Utah, for lands adjacent thereto, between the Mount Olivet Cemetery Association, of Salt Lake City, Utah, and the Government of the United States.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of Mariners Harbor, No. 3, American Association of Master Mates and Pilots, of Rondout, N. Y., and a petition of Enterprise Harbor, No. 2, American Association of Master Mates and Pilots, of Camden, N. J., praying for the passage of the so-called "Knox bill," concerning licensed officers of steam and sail vessels, which were referred to the Committee on Commerce.

Mr. BURROWS presented resolutions adopted by the legislature of the State of Michigan, favoring the placing of the names of officers of the civil war upon the retired list, which were referred to the Committee on Military Affairs.

Mr. PLATT presented a petition of members of the Bar Association of New York City, N. Y., praying for the enactment of legislation to increase the salaries of the Chief Justice and associate justices of the Supreme Court and of the circuit and district court judges of the United States, which was ordered to lie on the table.

He also presented a petition of Local Grange No. 124, Patrons of Husbandry, of Wolcott, N. Y., and a petition of sundry citizens of the State of New York, praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which were referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of Ira Thurber Post, No. 584, department of New York, Grand Army of the Republic, of Allegany, N. Y., praying for the enactment of legislation granting pensions to ex-prisoners of war, which was referred to the Committee on Pensions.

Mr. BROWN presented a petition of the Commercial Club of Broken Bow, Nebr., praying for the enactment of legislation granting travel pay to railway postal clerks, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. BURKETT presented a petition of sundry business men and stock raisers of Chadron, Nebr., praying for the repeal of the duty on hides, which was referred to the Committee on Finance.

He also presented a petition of the Commercial Club of Lincoln, Nebr., praying for the enactment of legislation granting travel pay to railway postal clerks, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. CLARKE of Arkansas presented petitions of sundry citizens of the State of Arkansas, praying for the enactment of legislation to increase the salaries of United States circuit and district court judges, which were ordered to lie on the table.

Mr. WARREN presented a memorial of the Wool Growers' Association of Fremont County, Wyo., remonstrating against the repeal of the duty on first-class wools, and also praying for an increased duty on third-class wools, which was referred to the Committee on Finance.

He also presented a petition of the Wool Growers' Association of Fremont County, Wyo., praying for the enactment of legislation providing for a reasonable maximum charge for grazing privileges on the public domain, which was referred to the Committee on Public Lands.

He also presented a petition of the Wool Growers' Association of Fremont County, Wyo., praying for the enactment of legislation requiring railroad companies in the transportation of live stock to run their trains at a minimum speed of not less than 16 miles per hour when there are 10 or more cars of live stock, which was referred to the Committee on Interstate Commerce.

He also presented petitions of Local Union No. 2318, of Cumberland; of Local Union No. 2591, of Glenrock; and of Local Union No. 2630, of Hudson, all of the United Mine Workers of America, in the State of Wyoming, praying for the enactment of legislation granting a sufficient compensation to maintain the family or beneficiaries of those who are killed or injured in mine disasters, which were referred to the Committee on Mines and Mining.

Mr. DICK presented a resolution adopted at a meeting of the coal operators of the Pittsburg (Pa.) district, relative to the establishment of a national Bureau of Mines, which was referred to the Committee on Mines and Mining and ordered to be printed in the RECORD, as follows:

PITTSBURG, PA., *January 18, 1909.*

At a meeting of the coal operators of the Pittsburg district, held this day, the following action was taken:

Whereas there is now before Congress a bill which provides for the establishment of a National Bureau of Mines, for the purpose of carrying on technological investigations that are pertinent to the mining industries; and

Whereas the operators of this district feel that such a bureau will be of the greatest benefit to the coal industry, in making tests of explosives and other materials used in mines, thus tending to the preservation of life and property: Therefore be it

Resolved, That the Senators and Members of Congress from this State be especially urged to do everything in their power to bring about favorable action upon this measure, with a view of having such a bureau established and placed on a permanent basis.

SAMUEL A. TAYLOR, *Secretary.*

Mr. PAGE presented a petition of Local Grange, Patrons of Husbandry, of Danville, Vt., praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. HEYBURN presented a petition of members of the Bar Association of Nez Perce County, Idaho, praying for the enactment of legislation to increase the salaries of United States circuit and district court judges, which was ordered to lie on the table.

Mr. PERKINS presented a petition of the Chamber of Commerce of San Francisco, Cal., praying that an appropriation be made for restoring and rebuilding the jetties at the entrance to Humboldt Bay, in that State, which was referred to the Committee on Commerce.

Mr. DICK. I present a memorandum to accompany the bill (S. 8368) to regulate the retirement of certain veterans of the civil war. I move that the memorandum be printed and referred to the Committee on Military Affairs.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. DAVIS, from the Committee on Claims, to whom was referred the bill (S. 5009) to reimburse John G. Foster and Horace H. Sanford, reported it without amendment and submitted a report (No. 794) thereon.

Mr. CULBERSON, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 7276) providing for the improvement, repair, and an addition to the public building at Pensacola, Fla., reported it without amendment.

Mr. BEVERIDGE. The bill (H. R. 26216) to extend the provisions of section 4 of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1895, and for other purposes," approved August 18, 1894, to the Territories of New Mexico and Arizona, was incorrectly referred to the Committee on Territories. I report the bill back and ask that it be referred to the Committee on Public Lands, to which it should be assigned.

The VICE-PRESIDENT. Without objection, it is so ordered.

Mr. FULTON, from the Committee on Claims, to whom were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (S. 1177) for the relief of S. W. Langhorne and H. S. Howell (Report No. 795);

A bill (S. 5510) for the relief of the owners of the tug *Juno* (Report No. 796);

A bill (S. 8379) for the relief of the owners of the British steamship *Maroa* (Report No. 797);

A bill (H. R. 3388) for the relief of L. B. Wyatt (Report No. 798); and

A bill (H. R. 13955) to compensate E. C. Sturges for property lost during the Spanish-American war (Report No. 799).

Mr. FORAKER, from the Committee on Pacific Islands and Porto Rico, to whom were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (S. 8601) to provide for the payment of claims of the Roman Catholic Church in Porto Rico (Report No. 800); and

A bill (H. R. 6145) to refund to the Territory of Hawaii the

amount expended in maintaining light-house service on its coasts from the time of the organization of the Territory until said light-house service was taken over by the Federal Government (Report No. 801).

Mr. NELSON, from the Committee on Public Lands, to whom was referred the bill (S. 8587) to amend sections 2325 and 2326 of the Revised Statutes of the United States, reported it with amendments and submitted a report (No. 802) thereon.

Mr. BURKETT, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 7348) authorizing the procuring of additional land for the site of the public building at Beatrice, Nebr., reported it with amendments and submitted a report (No. 803) thereon.

Mr. SCOTT. I am directed by the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 6327) providing for the purchase of a reservation for a public park in the District of Columbia, to report it without amendment, and I submit a report (No. 804) thereon. I ask that the map accompanying this bill be printed with the report.

The VICE-PRESIDENT. The bill will be placed on the calendar, and the map accompanying the report will be printed at the request of the Senator from West Virginia.

Mr. SCOTT, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 7951) to provide for the erection of a temporary annex to the post-office building in Detroit, Mich., reported it without amendment and submitted a report (No. 805) thereon.

Mr. WARNER, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 8034) to increase the limit of cost for purchase of site and erection of a post-office building at Missoula, Mont., reported it without amendment and submitted a report (No. 806) thereon.

He also, from the same committee, to whom was referred the bill (S. 7444) for the establishment of a park at the intersection of Rhode Island avenue, North Capitol, and U streets NW., Washington, D. C., submitted an adverse report (No. 807) thereon, which was agreed to, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the amendment submitted by Mr. LONG on the 12th instant, proposing to appropriate $90,000 for increasing the limit of cost for the addition to the public building at Kansas City, Kans., intended to be proposed to the sundry civil appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations and printed, which was agreed to.

Mr. WETMORE, from the Committee on Public Buildings and Grounds, reported an amendment proposing to appropriate $5,000 for post-office, court-house, and finishing quarters in attic for Civil Service Commission, Providence, R. I., intended to be proposed to the sundry civil appropriation bill, and moved that it be printed and referred to the Committee on Appropriations, which was agreed to.

REPORT ON HAWAII.

Mr. PLATT, from the Committee on Printing, to whom was referred Senate resolution 245, submitted by Mr. PERKINS on the 8th instant, reported it with an amendment in the nature of a substitute, and the substitute was considered by unanimous consent and agreed to, as follows:

Resolved, That 3,000 additional copies of Senate Document No. 668, Sixtieth Congress, second session, "Hawaii, Its Natural Resources and Opportunities for Home Making," be printed for the use of the Senate document room.

BOUNDARY LINE BETWEEN MISSISSIPPI AND LOUISIANA.

Mr. CLARKE of Arkansas. I am directed by the Committee on the Judiciary, to whom was referred H. J. Res. 232 and H. J. Res. 233, to report them severally without amendment. The joint resolutions relate to local matters, and as they will consume no time, I ask for their present consideration.

There being no objection, the joint resolution (H. J. Res. 232) to enable the States of Mississippi and Louisiana to agree upon a boundary line and to determine the jurisdiction of crimes committed on the Mississippi River and adjacent territory was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BOUNDARY LINE BETWEEN MISSISSIPPI AND ARKANSAS.

Mr. CLARKE of Arkansas. I now ask for the present consideration of House joint resolution 233.

There being no objection, the joint resolution (H. J. Res. 233) to enable the States of Mississippi and Arkansas to agree upon a boundary line and to determine the jurisdiction of crimes committed on the Mississippi River and adjacent territory was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PUBLIC BUILDING AT SIOUX FALLS, S. DAK.

Mr. CULBERSON. I am directed by the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 7675) to increase the limit of cost for the enlargement, extension, remodeling, and improvement of the federal building at Sioux Falls, S. Dak., to report it favorably without amendment, and I submit a report (No. 808) thereon.

Mr. KITTREDGE. Mr. President, I ask unanimous consent for the present consideration of the bill just reported by the Senator from Texas.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that the limit of cost fixed by the act of Congress approved May 30, 1908, for the enlargement, extension, remodeling, and improvement of the federal building at Sioux Falls, S. Dak., be extended from $100,000 to $190,000, and it authorizes the Secretary of the Treasury to acquire, by purchase, condemnation, or otherwise, such additional land, if any, as may be needed in connection with the extension.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. GUGGENHEIM introduced the following bills, which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 8635) granting an increase of pension to David W. Aldrich;

A bill (S. 8636) granting an increase of pension to Cora G. Davison;

A bill (S. 8637) granting an increase of pension to Sarah J. Selby;

A bill (S. 8638) granting an increase of pension to Alfred H. Livingston;

A bill (S. 8639) granting an increase of pension to Albert N. Raymond;

A bill (S. 8640) granting an increase of pension to Mahala A. Brumley;

A bill (S. 8641) granting an increase of pension to George Stevens;

A bill (S. 8642) granting an increase of pension to Frederick H. Williams;

A bill (S. 8643) granting an increase of pension to Charles H. Wilsey;

A bill (S. 8644) granting an increase of pension to Eunice A. Starr;

A bill (S. 8645) granting an increase of pension to Robert H. Fernsworth; and

A bill (S. 8646) granting an increase of pension to Robert S. Faught.

Mr. BURKETT introduced the following bills, which were severally read twice by their titles and referred to the Committee on Pensions:

A bill (S. 8647) granting an increase of pension to William Sherman; and

A bill (S. 8648) granting an increase of pension to Helen E. Salsbury (with the accompanying papers).

Mr. MCENERY introduced a bill (S. 8649) to amend an act entitled "An act in relation to the Hot Springs Reservation in Arkansas," which was read twice by its title and referred to the Committee on the Judiciary.

Mr. MCENERY. To accompany the bill, I present a memorial of the general assembly of the State of Louisiana, which I ask may be printed as a document and referred to the Committee on the Judiciary.

The VICE-PRESIDENT. Without objection, it is so ordered.

Mr. LODGE introduced a bill (S. 8650) granting a pension to Mary Bradford Crowninshield, which was read twice by its title and, with the accompanying paper, referred to the Committee on Pensions.

Mr. MCLAURIN (for Mr. GORE) introduced a bill (S. 8651) granting a pension to Esaw Walker, which was read twice by its title and referred to the Committee on Pensions.

Mr. TAYLOR introduced the following bills, which were severally read twice by their titles and referred to the Committee on Pensions:

A bill (S. 8652) granting a pension to Elihu Messer; and

A bill (S. 8653) granting an increase of pension to A. Bornstein.

Mr. CLARKE of Arkansas introduced a bill (S. 8654) for the relief of certain occupants of unsurveyed public lands in Craighead County, Ark., which was read twice by its title and referred to the Committee on Public Lands.

Mr. GALLINGER introduced a bill (S. 8655) to require the Washington Gaslight Company and the Georgetown Gaslight Company to maintain and record a certain pressure of gas, which was read twice by its title and, with the accompanying papers, referred to the Committee on the District of Columbia.

He also introduced a bill (S. 8656) granting an increase of pension to Sallie S. Allen, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

Mr. CARTER introduced a bill (S. 8657) granting a pension to William R. Bramble, which was read twice by its title and referred to the Committee on Pensions.

He also introduced a bill (S. 8658) for the relief of Edward Breassey, which was read twice by its title and referred to the Committee on Claims.

Mr. McENERY introduced a bill (S. 8659) for the benefit of the Citizens' Bank of Louisiana, which was read twice by its title and referred to the Committee on Claims.

Mr. DICK introduced a joint resolution (S. R. 117) relating to the celebration of the one-hundredth anniversary of the birth of Abraham Lincoln and making the 12th day of February, 1909, a legal holiday, which was read twice by its title and referred to the Committee on the Library.

AMENDMENT TO OMNIBUS CLAIMS BILL.

Mr. CLARK of Wyoming submitted an amendment intended to be proposed by him to the bill H. R. 15372, commonly known as the "omnibus claims bill," which was referred to the Committee on Claims and ordered to be printed.

COMPANIES B, C, AND D, TWENTY-FIFTH INFANTRY.

Mr. FORAKER submitted an amendment intended to be proposed by him to the bill (S. 5729) to correct the records and authorize the reenlistment of certain noncommissioned officers and enlisted men belonging to Companies B, C, and D of the Twenty-fifth U. S. Infantry, who were discharged without honor under Special Orders, No. 266, War Department, November 9, 1906, and the restoration to them of all rights of which they have been deprived on account thereof, which was ordered to lie on the table and be printed.

IMPROVEMENT OF MATTAPONI RIVER, VIRGINIA.

Mr. MARTIN submitted the following concurrent resolution (S. C. Res. 75), which was referred to the Committee on Commerce.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause an examination and survey to be made and submit estimates for the following improvements in the Mattaponi River, Virginia:

For a channel 200 feet wide and 14 feet deep from York River to the landing one-half mile above the bridge at Walkerton.

For a channel 100 feet wide and 7 feet deep from the above-mentioned landing to Ayletts.

For a channel 60 feet wide and 5 feet deep from Ayletts to Dunkirk.

For a channel 7 feet deep across the Middle Ground, connecting the Mattaponi and Pamunkey channels, just off West Point.

For a suitable turning basin at Ayletts.

For the straightening and cutting off certain bends and points of land projecting into the river at several points between Walkerton and Ayletts.

For a thorough snagging and removal of logs from the river between Walkerton and Dunkirk, and the clearing of the river banks of all trees, stumps, etc., which make navigation dangerous at times of extra high tides or freshets in the river.

MILITARY ACADEMY AT WEST POINT.

Mr. DICK submitted the following resolution (S. Res. 256), which was referred to the Committee on Military Affairs:

Resolved, That the Secretary of War be directed to furnish to the Senate of the United States copies of all reports, recommendations, and other correspondence of record in the War Department, or at the United States Military Academy at West Point, relative to the subject of hazing at the Military Academy since January 1, 1908; also copies of all reports, recommendations, and other correspondence of record in the War Department relative to cadets of the Military Academy reported as deficient in either conduct or studies, or both, as a result of the last general examination held at the Military Academy.

USE OF CARRIAGES BY OFFICIALS.

Mr. FLINT. I submit a resolution and ask unanimous consent for its immediate consideration.

The resolution (S. Res. 257) was read, as follows:

Resolved, That the Committee on Appropriations be, and they are hereby, directed to ascertain and report to the Senate whether any officers of the Government, including the army and navy, are devoting to their personal or private use any carriages, automobiles, or other vehicles which are the property of or are provided by the Government.

The VICE-PRESIDENT. The Senator from California asks for the present consideration of the resolution. Is there objection?

Mr. GALLINGER and Mr. HALE. It had better go over.

The VICE-PRESIDENT. Objection is made, and the resolution will lie over.

HOUSE BILLS REFERRED.

H. R. 26203. An act making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1910, and for other purposes, was read twice by its title and referred to the Committee on Pensions.

H. R. 26399. An act making appropriations to supply urgent deficiencies in the appropriations for the fiscal year ending June 30, 1909, was read twice by its title and referred to the Committee on Appropriations.

FORT DOUGLAS MILITARY RESERVATION, UTAH.

The VICE-PRESIDENT laid before the Senate the bill (S. 7396) for the exchange of certain lands situated in the Fort Douglas Military Reservation, State of Utah, for lands adjacent thereto, between the Mount Olivet Cemetery Association, of Salt Lake City, Utah, and the Government of the United States, returned from the House of Representatives in compliance with the request of the Senate.

Mr. SUTHERLAND. I ask for action on the motion I entered the other day to reconsider the votes by which the bill was ordered to a third reading and passed.

The motion to reconsider was agreed to.

Mr. SUTHERLAND. I move that the bill be indefinitely postponed.

The motion was agreed to.

REPORT OF INTERNATIONAL TUBERCULOSIS CONGRESS..

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States (S. Doc. No. 671), which was read and, with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed.

To the Senate and House of Representatives:

I transmit herewith for the information of the Congress a communication from the secretary of the Smithsonian Institution, together with reports from the superintendent of construction of the new National Museum building, the disbursing agent of the Institution, and the secretary-general of the International Tuberculosis Congress, as to the details of the work done by the Smithsonian Institution in fitting up the building for the meetings of said congress and the results accomplished by the congress.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *January 20, 1909.*

REPORT OF JAMESTOWN TERCENTENNIAL COMMISSION.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Printing:

To the Senate and House of Representatives:

In compliance with the provisions of the acts of Congress approved March 3, 1905, and June 30, 1906, respectively, I submit herewith the final report of the Jamestown Tercentennial Commission, embodying the reports of various officers of the Jamestown Exposition, held at Norfolk, Va., in 1907.

It is recommended by the commission that if the report is published as a public document the illustrations be included. If it should be so published, I would recommend that a sufficient sum be authorized from the unexpended balance remaining in the appropriation of $50,000 for expenses of the Jamestown Tercentennial Commission to cover the expenses of printing 2,000 copies—500 for the Senate, 1,000 for the House of Representatives, and 500 for distribution to public libraries throughout the country.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *January 20, 1909.*

OMNIBUS CLAIMS BILL.

The VICE-PRESIDENT. The morning business is closed.

Mr. FRAZIER. Mr. President, I ask that Senate bill 5729 be laid before the Senate.

Mr. FULTON. I do not, of course, wish to interfere with the Senator from Tennessee. I only want to inquire whether his proceeding now will affect the unanimous-consent agreement for the consideration of the omnibus claims bill, if it is laid aside for other business than that mentioned in the agreement. If so, I simply ask the Senator to allow me to have that bill laid before the Senate, and then he can proceed with his remarks just the same.

Mr. FRAZIER. Very well.

The VICE-PRESIDENT. The Senator from Oregon asks that the omnibus claims bill be laid before the Senate. It will be stated by the Secretary.

The SECRETARY. A bill (H. R. 15372) for the allowance of certain claims reported by the Court of Claims under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the "Bowman" and "Tucker" acts.

COMPANIES B, C, AND D, TWENTY-FIFTH INFANTRY.

Mr. FRAZIER. I ask that Senate bill 5729 be laid before the Senate.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 5729) to correct the records and authorize the reenlistment of certain noncommissioned officers and enlisted men belonging to Companies B, C, and D of the Twenty-fifth United States Infantry who were discharged without honor under Special Orders, No. 266, War Department, November 9, 1906, and the restoration to them of all rights of which they have been deprived on account thereof.

Mr. FRAZIER. Mr. President, when the resolution under which the investigation of the Brownsville affray has been carried on by the Military Committee was before the Senate in the Fifty-ninth Congress, I cast my vote against it. I did so for two reasons: First, because I believed that, under the law, the President had the right to discharge an enlisted soldier before the expiration of his term of enlistment when, in his opinion, it was necessary and proper to do so for the good of the service, and the President having exercised the discretion vested in him by law, I did not believe it was wise, even if within the scope of the powers of the Senate, to attempt to review or annul his action; and, second, because I believed that such investigation would tend to stir up, keep alive, and accentuate race feeling and prejudice, and that its effects would be hurtful both to the army and to the country at large.

I have had no occasion, Mr. President, to change the views I at that time entertained.

The fact is, Mr. President, if that had been a battalion of white soldiers instead of negroes, there would never, in my opinion, have been any legislative investigation, and the control and discipline of the soldiers of the army would have been left undisturbed in the Commander in Chief of the army, where it properly belongs.

But it seems, Mr. President, that whenever any question arises affecting the negro, there are certain people, including the negro himself, who seem to think that he should be dealt with in an exceptional and unusual way; that he is to be treated as the ward of the Nation, and must be the constant object of its care and solicitude. No greater wrong can be done the negro and no greater injury can be inflicted upon the country as a whole than to impress upon the negro such false and erroneous teachings. Mr. President, those who have been instrumental in placing practically the entire negro population of the country in the attitude of defending criminals of their race, because they were of their race, have assumed a grave responsibility, indeed. They have inflicted a lasting injury upon the country and upon the negro himself. If those people in every section of the country, who are especially solicitous for the negro's welfare would, by word and act, teach the negro that he is to be shown no exceptional consideration, but must stand or fall on his conduct and merit alone, they would render him incalculable benefit and the country a lasting service.

But it is not my purpose at this time, Mr. President, to discuss the action of the Senate in passing the resolution and ordering the investigation. The resolution was passed; the investigation has been made at the expense of much time, labor, and money. The committee has reported. Nine out of thirteen members of the committee find and report that the shooting up of the town of Brownsville was done by the soldiers of the Twenty-fifth Infantry then stationed at Fort Brown.

Mr. President, I would have been content to sit silent and leave this question where the report of the majority of the Committee on Military Affairs and the order of the President left it, but for the fact that two bills have been introduced and are now on the calendar of the Senate, both having for their purpose the restoration to the army of the men of the Twenty-fifth Infantry discharged under the President's order. It is true that both of said bills come before the Senate from the Military Committee with adverse reports, but both bills are here and their consideration is being pressed. It therefore becomes important, in fact, essential for the Senate in the consideration of these bills, to pass upon and determine the question as to whether the negro soldiers of the Twenty-fifth Infantry, stationed at Brownsville, were the perpetrators of the assaults and murder committed there on the night of August 13–14, 1906.

If some of the negro soldiers were guilty of the crimes enacted there on that night, and the most searching investigation has failed to reveal and identify the actual participants, then the whole battalion is contaminated, and surely no part of it should be taken back into the service. If, upon the other hand, all of the soldiers were wholly innocent of any participation in that riot, then the President, by his order of dismissal, did them a great wrong. I shall therefore address myself first to the question, Who shot up the town of Brownsville? It is a simple question of fact to be determined from the evidence. That the town was raided at the dead hour of midnight, by a band of armed desperadoes who shot into houses of citizens, endangered the lives of women and children, wounded the lieutenant of police, and killed one unoffending citizen, nobody denies. Who were the guilty perpetrators of those outrages? That is the first question to be determined.

Mr. President, perhaps no event of like character in the history of this country was ever so often investigated, and by so many different people and tribunals and with such elaboration, as this shooting affair at Brownsville. It has been dignified into a question of national importance. Not less than seven separate, distinct, and independent investigations have been made by individuals of high character and great responsibility, by courts, both civil and military, and by committees.

And while it is not conclusive, it may be persuasive for the Senate to know that the verdict in each and every one of these investigations, as to the negro soldiers, has been guilty. The affray was first investigated immediately after it occurred by Major Penrose, the commanding officer of the post, in connection with a committee of the citizens of Brownsville. That committee was headed by Captain Kelly, an ex-federal soldier and a Republican, and its other members included citizens of the highest standing and respectability in the city of Brownsville. The events were fresh in the minds of the witnesses who testified before them, and the committee and Major Penrose were on the ground and were doubtless moved by an earnest desire to reach the truth. Both found and reported that the assault was made by soldiers of the Twenty-fifth Infantry.

The citizens' committee embodied its findings in a telegram to the President, of date August 15–16, 1906, a portion of which I quote:

> The undersigned, a committee of citizens appointed at and by a mass meeting of the people of Brownsville, held in the federal courthouse in this city on Tuesday, the 14th instant, to investigate the attack made on the city by negro troops stationed at Fort Brown, adjoining the city, after an almost continuous session of two days, find as follows: That a few minutes before midnight on Monday, the 13th, a body of United States soldiers of the Twenty-fifth Infantry (colored), numbering between 20 and 30 men, emerged from the garrison inclosure, carrying their rifles and an abundant supply of ammunition, and also began firing in town and directly into dwellings, offices, stores, and at police and citizens. During the firing one citizen, Frank Natus, was killed in his yard, and the lieutenant of police, who rode toward the firing, had his horse killed under him and was shot through the right arm, which has since been amputated at the elbow. After firing about 200 shots, soldiers retired to their quarters. After the most diligent inquiry we find that no shots were fired from the town into or toward the garrison, nor any provocation given for the attack.

Major Penrose reported to the War Department, of date August 15, 1906, in which he said, among other things:

> The mayor again called upon me about 10 a. m. (August 14) and informed me that a few empty cartridge cases and used clips for our Springfield rifle had been found in the streets, and later in the morning he told me there had been picked up between 75 and 100 empty cases and used clips, as well as a few cartridges that had not been fired. *Some of these I examined, and there is no doubt they are those manufactured by our Ordnance Department and issued to the troops.*
>
> *Were it not for the evidence of the empty shells and used clips I should be of the firm belief that none of my men was in any way connected with the crime, but with this fact so painfully before me, I am not only convinced it was perpetrated by men of this command, but that it was carefully planned beforehand.*

Major Blocksom, an inspector-general of the army, was sent to Brownsville immediately after the affray, and after a thorough and exhaustive examination and investigation, reported to the same effect, that the shooting was done by the negro soldiers. The grand jury of Cameron County, Tex., in which Brownsville is located, after a careful investigation, reported that the negro soldiers made the raid and did the shooting, but they properly found no indictment, because the proof failed to identify the individuals guilty of the crime. No indictment will lie against a battalion of men.

Mr. Purdy, an Assistant Attorney-General of the United States—a man of judicial temperament—a northern man and a Republican—after a searching investigation, reached the same conclusion of guilt on the part of the soldiers.

The Penrose court-martial, composed of eight officers of the highest character and standing, and certainly not prejudiced against the soldiers, after a hearing lasting four months, likewise found that the shooting was done by the enlisted men of the Twenty-fifth Infantry, stationed at Brownsville.

It may be said that in the trial of Major Penrose the question of the guilt of these men did not properly arise, and hence that finding was gratuitous. But an examination of the specifications filed against Major Penrose shows that it was one of the questions raised. In fact, the chief contention raged about it, for if it could have been established that the soldiers did not commit the outrages of the night of August 13–14, then no blame could attach to Major Penrose, and he must go free.

And finally, Mr. President, the Military Committee of this Senate, after an investigation lasting for more than a year, and of the most thorough and exhaustive character, has found and reported to the Senate, by a majority of 9 to 4, as follows:

First. That in the opinion of this committee the shooting in the affray at Brownsville on the night of August 13–14, 1906, was done by some of the colored soldiers belonging to the Twenty-fifth U. S. Infantry, then stationed at Fort Brown, Tex.

Fortunately for the truth of history, the committee charged with the investigation of this shooting affray were able to secure the testimony of at least 15 witnesses who saw and recognized the raiders as soldiers, and by whose testimony they can be traced from their gathering near to or within the walls of the reservation throughout the length of their murderous foray and until they started on their return to the reservation. I shall briefly and as concisely as possible quote the substance of the testimony of some of these witnesses who trace the raiding party from beginning to end. I shall not consume the time of the Senate in reading the testimony of the witnesses, but shall try to state it, so far as I undertake to do so, fairly and impartially.

Mr. George W. Rendall and wife lived over the telegraph office, situated on the corner of Elizabeth street and Garrison road, opposite the gate or entrance to the reservation. Mr. Rendall is a large property owner, was a member of the Perry expedition that opened Japan to the world and to modern civilization, and is a man of the highest standing and respectability in Brownsville. When the firing began, he looked out of his window toward the reservation and across the street, only 30 feet wide, and, by the lights over the gate, saw and recognized a bunch of soldiers on the inside of the wall going toward the mouth of Cowan alley. He saw these men jump the wall and go in the direction of that alley. His wife also saw the bunch of men on the inside of the wall going in the direction of the point where they scaled the wall.

José Martenez, a drug clerk, lived at the house at the corner of Cowan alley and Garrison road. He was sitting in his room reading. The door was open. He heard the first shots, as he thinks, inside the wall, and distinctly heard the voices of the men calling to each other to "hurry up," and "jump," and heard them as they jumped the wall and proceeded up Cowan alley. He recognized them as dressed in the uniform of United States soldiers.

These three witnesses, who are unimpeached and whose testimony is straightforward and clear, would seem to establish beyond question that the raiders proceeded from within the wall of the reservation.

The raiders proceeded up what is known as "Cowan alley," a narrow alley between Elizabeth and Washington streets, and running parallel with them. At the corner of Cowan alley and Fourteenth street they fired a large number of shots into the Cowan house, occupied by Mrs. Cowan and her children and a servant girl. The house was still lighted, it having been only a short time before filled with the laughter and joy of a children's party. The rear room of this house extends along the alley, and its window was only a few feet from the alley. There was a light in the room. As the firing approached, the servant girl, Amanda Martinez, went to close the window opening on the alley, and as she did so, by the light of the lamp in the room, she saw and recognized, only a few feet from her, the negro soldiers, with their guns, firing into the house. This witness had exceptionally favorable opportunity of seeing and recognizing the raiders, and her testimony is in no wise impeached or contradicted. This witness was a plain, working girl who entertained no prejudice against the negro soldiers. She could not have been a party to any conspiracy, if there was one, to charge the crimes of that night upon the soldiers. If such a purpose was plotted and carried out by anybody, surely this poor working girl would not have been taken into the plot. She was where she could see. She swears she did see, and unless she deliberately perjured herself, without motive or reason, the men who fired into the Cowan house that night, shot out the lighted lamp that stood near to her, shot over the prostrate forms of the mother and children, who had thrown themselves prone upon the floor and lay there crouching while a shower of bullets passed only a few feet above their prostrate forms, were negroes, dressed in the uniform of American soldiers.

Just across Fourteenth street from the Cowan house is the rear of the Leahy Hotel. Herbert Elkins, a young man of some 18 or 19 years of age, was occupying a rear room on the second floor of the hotel. That room was only a few feet from the corner of Fourteenth street and the alley. He had just retired, but had not gone to sleep, and as the raiders came up the alley firing he looked out of the window and saw and recognized them as United States soldiers. He states that the leaders of the party proceeded up the alley, and that some of the party turned into Fourteenth street, apparently uncertain which way to go; and that the leaders up the alley called them to come that way; and as they turned to follow the leaders they were directly opposite his window and just beneath him, and only a short distance from him; and he distinctly recognized them as negroes dressed in the uniform of United States soldiers, armed with guns.

Mrs. Leahy, the proprietress of the hotel, who stood at a window in one of the nearby rooms on the second floor, also saw and recognized the men as negro soldiers.

The raiding party proceeded up Cowan alley to the corner of Thirteenth street, and there fired into the rear rooms of the Miller Hotel. One of these rooms on the second floor, with a window opening on the alley, was occupied by Mr. Hale Odin, his wife, and children. They stood at the window and saw the raiding party approach, and state that they recognized them as negro soldiers. One soldier fired directly at them, there being a light in their room, and the bullet entered the sill of the window and passed up through the room. Hale Odin was not even a citizen of Brownsville; he was a northern man; a graduate of Ann Arbor, and could have had no possible interest in unjustly fixing the blame upon the negro soldiers.

When the firing began the lieutenant of police, M. Ygnacio Dominguez was at the police station. He immediately mounted his horse, rode down Washington street to Fourteenth street, and there met another policeman, who told him that the negro soldiers were raiding the town and that they had gone up Cowan alley. He at once rode back to Washington street, along which he was joined by another policeman on foot, and together the three policemen proceeded down Thirteenth street toward Cowan alley, up which the raiders were proceeding. When they approached near to Cowan alley, the two policemen on foot, realizing the danger of encountering a band of desperadoes, numbering from 10 to 20, armed with high-power rifles, begged the lieutenant of police not to proceed down Thirteenth street to the alley, but the old officer, who had been on the police force of Brownsville for more than ten years and had made a most enviable record, both as a citizen and as an officer, seeing, as he stated, lights burning in the Miller Hotel, and realizing that the lives of its occupants were in danger, rode down the street and intercepted the advancing raiders at the junction of the alley and Thirteenth street. As he advanced into what seemed the very jaws of death, he cried out to the people "to put out their lights," and as he came to the junction of the alley and Thirteenth street, he was, as he says, within 20 to 25 feet of the raiding party, and he recognized them as negro soldiers, armed with rifles. They fired upon him as he rode hastily across the alley and down Thirteenth street, with a rain of bullets flying about him. He was shot in the arm so severely that amputation was necessary. His horse was shot under him and fell dead a short distance beyond at the corner of Thirteenth and Elizabeth streets.

Those who are interested in the defense and exoneration of the negro soldiers may question the integrity and good faith of other witnesses; may question the opportunities to see and know who the murderous assailants were; but Dominguez, who, in the discharge of his duty, was brought within a few feet of these men, and who rode that night upon his white horse amidst a rain of bullets fired from high-power rifles, could not be mistaken as to the men who fired the deadly missiles at him as he cried out to the people to put out their lights and save their lives. If there was a conspiracy of citizens or saloon keepers or smugglers or anybody else to shoot and kill and then charge it upon the soldiers, surely Dominguez was no party to it, for he carries an empty sleeve, which is testimony convincing alike of his innocence of conspiracy and of the fact that he was there in the thick of the fray and knew whereof he spoke. He bore no ill will against the soldiers. He had no motive to unjustly lay the blame upon them. He had no friends to shield. He could have had no purpose to misrepresent or to swear falsely. He, above all others in Brownsville that night, save one, was the sufferer, and he would have been equally interested in detecting the guilty men, whether they had been citizens or smugglers or soldiers. With one accord every witness who was questioned upon the subject testified to the honesty, the sincerity, the high character for truthfulness, as well as the universal popularity, of Lieutenant Dominguez among the people with whom he lived and whom he had so long and faithfully served. Can it be possible that that honest man, without rhyme or reason or purpose, deliberately perjured himself? I do not believe it.

The other two policemen concealed themselves in the shadow of the doorways of the buildings on Thirteenth street, only a short distance from the alley, and each saw and recognized the raiding party as negro soldiers. When discovered, they were

fired upon by the soldiers, but retreated back up Thirteenth street beyond Washington. The hat of one of the policemen was pierced by a bullet fired by the raiders.

Mr. Chase, Mr. Bodin, Mr. Canada, and other guests of the Miller Hotel, not citizens of Brownsville, looking out of the windows of the hotel, saw and recognized the raiders as men dressed in the uniform of United States soldiers.

The desperadoes proceeded up Cowan alley to what is known as the "Tillman Saloon," the proprietor of which had been loud in his protests against the negro soldiers being sent to Brownsville, and who had refused accommodations at the same bar to the negro soldiers with his white patrons. He had established a bar in the rear or side of his saloon, and allowed negro soldiers to be served apart from white people, if they would come in that way, but they had refused his proffered offer. In the rear of this saloon was a courtyard, in which patrons were served drinks. It was lighted by a number of lamps. When the firing began, the bartender closed the front door of the saloon opening upon Elizabeth street; and as the firing proceeded up Cowan alley toward the saloon he started through the courtyard to close the rear door opening upon the alley; but before he reached the door the band of assassins stepped within the door and fired upon him, one bullet passing through his body. He fell in the courtyard and died almost instantly. A more wanton, cold-blooded, and unprovoked murder has seldom been recorded in the criminal annals of this country.

Paulino Preciado and another Mexican were sitting in the courtyard in the rear of the saloon waiting to be served when the firing began. They went with the bartender to the front when he went there to close the door. Preciado was following Frank Natus, the bartender, to the rear to close the gate leading into the alley when Natus was shot and killed and was within plain view of the men who fired the fatal shot. He himself was shot through the hand and through the clothing. By the light of the lamps in the courtyard—it was practically as light as day—he could see and recognize them as negro soldiers. They stepped within the door when they fired upon Frank Natus, as this witness testifies.

This man, who is the editor of a paper published in Spanish in the city of Brownsville, if to be believed, establishes beyond the possibility of doubt the guilt of some of the soldiers of the Twenty-fifth Infantry. It is claimed that his testimony is, at least to some extent, discredited by the fact that he testified before the grand jury and others, and that in such testimony he did not state that the soldiers came within the door of the courtyard; but his explanation of that is that he testified through an interpreter and only answered the questions that were propounded to him, and that that particular question was not asked him. The explanation seems reasonable and plausible. That he was there in the saloon both before and after the death of Frank Natus, that he had the opportunity to see how he was killed, and that he was within the range of the bullets fired is not disputed, and it seems scarcely reasonable to suppose that this man would deliberately swear falsely as to the material fact of the identity of the murderers. He was a Mexican and had no prejudice against the negro soldiers. His character was not impeached. He appeared to be a man of education and respectability in the community in which he lives.

But, more than that, Preciado is corroborated by the fact that at the Miller Hotel, at the corner of Thirteenth street and Cowan alley, eight witnesses recognized the raiding party as soldiers and saw them cross Thirteenth street and go on up the alley toward the Tillman Saloon, only half a block away. If they were negro soldiers at the Miller Hotel, they were negro soldiers at the Tillman Saloon. They were the same band of men who had started from the barracks upon their mission of death. No others were seen or heard of that night.

Preciado was further corroborated by the testimony of Ambrose Littlefield, who, at the moment of the shooting into the Tillman Saloon, was standing in Cowan alley, less than a block away, and was looking at the raiding party. He saw the flash from the firing of only one gun, and yet he heard at the same time five or six guns fired into the saloon. If those firing had all been outside the door when the volley was fired, he would undoubtedly have seen the flashes from the other guns. *Where were those who fired that volley? They must have been within the wide door of the courtyard*, as Preciado says.

From the Tillman Saloon the raiding party returned along the alley to Thirteenth street, and thence to Washington street, where they fired into the house of a Mr. Starck. Adjacent to the house of Mr. Starck is the residence of Mr. Tate, the customs officer who had had a difficulty with the soldier, Newton, whom he had knocked down with a revolver some days before. The two houses were cottages, and similar in size and shape. As the raiders left the Tillman Saloon, returning along Cowan alley and thence up Thirteenth street to the Starck house, they were followed at some distance by Mr. Littlefield, a former deputy sheriff and a man of intelligence.

He followed at a safe distance, and as he was passing along the Cowan alley, between the saloon and Thirteenth street, the firing occurred at the Starck house, to his left. He ran to the corner of Thirteenth street and looked around the corner up in the direction of Washington street, a distance of only 120 feet from him, and as he did so he saw the raiders running diagonally across Thirteenth street and Washington street, in the direction of the barracks. There was a street lamp at the corner of Thirteenth and Washington streets, and as the raiders ran by and under that lamp Mr. Littlefield recognized them as wearing the uniform of soldiers and carrying guns, and as one of the raiding party ran near to the light he looked back in the direction of Mr. Littlefield, and he recognized him as a negro.

There were other witnesses who corroborated in many respects the testimony of the witnesses to whom I have referred. There were 15 or more witnesses who testified positively and unequivocally that they saw and recognized the raiding party as dressed in the uniform of United States soldiers and armed with rifles, and many of them recognized them as negroes. We are asked to believe that these witnesses were all mistaken, and that they could not have seen what they swore they saw because of the darkness of the night. It was a clear, starlight night and not a dark night. Many of the witnesses were very near to the raiders, and many had the aid of artificial light. To theorize as to how far a soldier or a negro could be seen and recognized as such on a different night and at another place and by different eyes is pure speculation and utterly worthless as evidence. No man could tell what a particular witness could see at those places and on that night unless the occurrences and all the accompanying conditions could be reproduced. And even then, what one eye could see might not be visible to a different eye. These 15 witnesses, in no wise personally interested in the subject of this investigation, entertaining no prejudice against the soldiers, swore that they could see, and that they did see and recognize them. Their testimony can not be brushed aside on the mere speculation that it was in the darkness of the night, and that they could not, therefore, recognize what they unequivocally swear they did recognize. Either those 15 witnesses, some of them not even residents of Brownsville, saw and identified the raiders as soldiers, or we must conclude that all of them theretofore known as truthful and respectable people, deliberately transformed themselves for the purposes of this investigation into a band of perjurers. Four witnesses—Hale Odin, Mr. Littlefield, Mrs. Leahy, and Herbert Elkins—saw soldiers immediately after the shooting ceased running back toward Fort Brown, carrying their guns. Thus the raiders are traced from their starting point, at the garrison wall, throughout their murderous foray, and are finally seen hurrying back toward the fort only two blocks away.

The positive testimony of these 15 disinterested witnesses would, in any ordinary case, even where men were being tried for their lives or liberty, be sufficient to satisfy any unbiased jury of the guilt of some of the negro soldiers, and to overcome the plea of not guilty, which is practically what is offered in contradiction of it. In fact, Mr. President, if a particular individual charged with this crime was identified with the certainty and precision that these 15 witnesses identified these raiders as soldiers, I can not see how he would escape conviction before any unbiased court.

But there are other facts and circumstances corroborative of the testimony of these witnesses which, it seems to me, when taken in connection therewith, is absolutely conclusive that the soldiers of the Twenty-fifth Infantry were the men who were guilty of the outrages and who committed the murder on that night. That the shooting was done with high-power rifles is conceded by all parties. Early in the morning following the raid, in fact in one instance before daylight, a large number of shells, clips, and some unexploded cartridges were picked up in the streets of Brownsville at the places where the firing occurred. These same shells and unfired cartridges and clips were identified beyond controversy as being government ammunition such as the Twenty-fifth Infantry were armed with. Clips of the kind picked up are only manufactured for and used with the Springfield rifle, model 1903. The shells and unexploded cartridges had on them the stamp of the manufacturer for the Government, so that there is no question that these shells and cartridges and clips were those used only by the Government, and with which the Twenty-fifth Infantry were supplied.

A number of witnesses, including Major Penrose himself, testified that the shells picked up were not corroded and appeared

to have been recently fired. Bullets were extracted from the Yturria House, the Cowan House, the Miller Hotel, and other houses into which they had been fired. These bullets were of substantially the size, weight, and by analysis were shown to be of the material of the bullets with which the Twenty-fifth Infantry were supplied. The proof is unquestioned that, if these bullets were fired from the empty shells picked up on the streets of Brownsville, they could not have been fired out of any other gun known, either military or sporting gun, except the Springfield rifle, model 1903. Those bullets had on them the marks of the four lands of the Springfield rifle. Other high-power rifles, except the Krag, have more than four lands.

But it is said that the Springfield cartridge might have been fired out of the Winchester or the Mauser rifle; but the bullets taken from the houses were not fired from either the Winchester or the Mauser rifle. Why do I say so? Because those guns have six lands, and the bullets found had on them the marks of only four lands. But it is said that these bullets may have been fired from the Krag gun, which has four lands. That is true, so far as the bullets are concerned; but if the bullets found in the houses were fired out of the shells found on the ground where the shooting occurred, then they could not have been fired out of the Krag gun, because the Springfield cartridge is too long and too large to be fired from the Krag. The proof is clear that the Springfield cartridge can not be fired from the Krag rifle, so that if the bullets found in the houses were fired from the Krag gun, they must have been fired from shells other than those picked up where the firing took place. If the bullets were fired from other shells than those found on the ground, what became of the empty shells from which they were fired? Could the raiders, in the darkness of the night and in the hurry of the raid, have picked up and removed every empty shell of the 200 or more fired, as they were thrown from their guns and scattered on the ground, so that not one was left? Of course that was impossible and could not have been done. It seems to me to follow, therefore, that the bullets taken from the houses must have been fired from the shells found upon the streets where the firing occurred; and if this be true, they could only have been fired from the Springfield rifle.

If the shells picked up in the streets after the shooting were government shells, if the bullets extracted from the houses were government bullets, and if it be true that the bullets and shells combined, forming the cartridges, could not have been fired from any other gun than the Springfield rifle, it leads logically and irresistibly to the conclusion that the soldiers, who alone had such guns and such ammunition, must have done the shooting. There is no possible escape from that conclusion.

Now, what are the facts? It is conceded by all that the shells picked up in the streets were government shells. It is proven that the bullets taken from the houses, in combination with the shells picked up, could only have been fired from the Springfield rifle, which rifles nobody in that country had except the soldiers. Then, were the bullets extracted from the houses government bullets? If so, the chain is complete and the conclusion can not be avoided.

Mr. President, a circumstance occurred in the investigation of this case by the committee which, in my judgment, was fortunate in the interest of truth, and which settled beyond the possibility of doubt the fact that the bullets taken from the houses were government bullets. When the bullets which were taken from the houses were presented in evidence before the committee, the Senator from Ohio, who has been diligent and untiring and able in his defense of these soldiers, requested that they be analyzed. Doubtless, in preparation for what might be revealed by that analysis, the distinguished Senator obtained and had placed in evidence the specifications according to which the bullets were to be made, prepared by the War Department and furnished to the manufacturer, the Union Metallic Cartridge Company, which manufactures a large part of the ammunition for the army. The shells and cartridges picked up upon the streets of Brownsville bore the stamp of that company. The specifications furnished by the War Department did not show that the bullets manufactured by the Union Metallic Cartridge Company for the Government were to contain antimony. The specifications called only for lead and tin. When the report of the analysis was furnished to the committee it appeared that a number of these bullets were composed of three ingredients—lead, tin, and antimony—and doubtless it was then believed by some that there had been discovered a circumstance which demonstrated that the bullets extracted from the houses in Brownsville, fired there on the night of the 13th of August by the raiders, were not government bullets at all, and, therefore, that the soldiers could not have been the guilty parties.

A closer investigation, however, of the records of the department revealed the fact that long before the affray occurred, and when the bullets were being manufactured by the Union Metallic Cartridge Company, in 1905, it was discovered that the bullet manufactured by the formula furnished by the department was not sufficiently hard at the point to stand the test prescribed, and that therefore the manufacturer, with the consent and approval of the government inspector, had put into these bullets antimony, to a certain extent, for the purpose of hardening the point of the bullet and increasing its resisting power. It appears from these records that 2,200,000 of the bullets manufactured by the Union Metallic Cartridge Company, under the contract of 1905, were made of the three ingredients—lead, tin, and antimony—and that a portion of those cartridges were sent to and were in the possession and use of the Twenty-fifth Infantry.

It is further proven by the testimony of the officers of this company that no other bullet manufactured, either for army purposes or sporting purposes, was ever manufactured by them, either before or after that time, which contained the three constituent elements of lead, tin, and antimony. Thus the bullets taken from the houses were not only shown, by reason of their peculiar and unusual composition, to have been government bullets, but the records further show that these peculiar and unusual bullets were the very bullets with which the Twenty-fifth Infantry were supplied. This search for antimony in the bullets which the Senator from Ohio had instituted, doubtless with the expectation of proving that the bullets taken from the houses were not government bullets, and that they must therefore have been fired by others than the soldiers, turned out, to my mind, an absolute and conclusive demonstration of the guilt of the soldiers. And thus the Senator from Ohio was "hoist with his own petard."

Of all the people in Texas or elsewhere who used bullets for sporting purposes, and of all the soldiers in this country who were armed with cartridges, the Twenty-fifth Infantry were the only ones near to or in the vicinity of Brownsville, Tex., who were armed with this peculiar bullet, distinct and different in its constituent elements from all others, and these peculiar bullets were those fired into the houses in Brownsville on the night of the raid, and they had on them the marks of the four lands made by being fired from the Springfield rifle, with which these soldiers were armed.

Mr. FORAKER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Tennessee yield to the Senator from Ohio?

Mr. FRAZIER. I do.

Mr. FORAKER. I hope it will not interrupt the Senator from Tennessee for me to suggest that the testimony shows that this precise bullet was also furnished to the Twenty-sixth Infantry, which preceded the Twenty-fifth Infantry at Brownsville, and that such bullets were to be found in the saloons there as well as in other places in Brownsville, which had been obtained from the Twenty-sixth Infantry—precisely this same kind of bullet. So that, instead of being hoist with my own petard, while I was disappointed—I will admit that—in the effect of the testimony, yet the testimony is clear that, so far as the bullets belonging to the Twenty-fifth Infantry are concerned, they might just as well have come from the Twenty-sixth Infantry.

Mr. FRAZIER. It is true, Mr. President, the Twenty-sixth Infantry, or a portion of them, were furnished with the same bullets, and it is true that there was some testimony that some saloon keepers had some of those bullets on their bars.

Mr. PILES. Mr. President——

The VICE-PRESIDENT. Does the Senator from Tennessee yield to the Senator from Washington?

Mr. FRAZIER. I do.

Mr. PILES. I should like to ask the Senator from Tennessee if all the bullets which were found were analyzed; and if so, were they all found to contain antimony?

Mr. FRAZIER. I am not sure that they were all analyzed. In fact, my recollection is that they were not all analyzed; but I am not distinct on that question. Perhaps the Senator from Ohio [Mr. FORAKER] can enlighten us.

Mr. FORAKER. They were not all analyzed. Only a few were analyzed that were collected for that purpose.

Mr. PILES. I should like to ask the Senator from Ohio, Was any bullet that was analyzed found to contain anything different from what the Senator from Tennessee has stated?

Mr. FORAKER. My recollection is that all the bullets that were analyzed contained antimony, but there was one bullet analyzed which did not contain the percentage of antimony that was found in the regular army bullets.

Mr. PILES. But all contained some antimony?

Mr. FORAKER. Yes; and the bullet to which I refer had no metal casing such as the regular army bullets had.

Mr. WARNER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Tennessee yield to the Senator from Missouri?

Mr. FRAZIER. I do.

Mr. WARNER. I think that we all agree that the bullets which were analyzed were selected generally; that no special bullets were sent up for analysis; so that they might be taken fairly as representative of all.

Mr. FRAZIER. That is undoubtedly true.

Mr. FORAKER. It was thought at the time that they would be a fair representation.

Mr. WARNER. I think so.

Mr. FRAZIER. That was done with the idea that it was not necessary to analyze every bullet.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Tennessee yield to the Senator from Texas?

Mr. FRAZIER. I do.

Mr. CULBERSON. At the suggestion of the Senator from Mississippi [Mr. MONEY], I ask the Senator from Tennessee this question: Although bullets might have been left by the soldiers of the Twenty-sixth Infantry, was there any proof that any of that infantry left their guns out of which such bullets could have been shot?

Mr. FRAZIER. None whatever; and I was just coming to that in the argument which I expect to make a little later. It would make no difference, Mr. President, if somebody else did have these shells or bullets. If they had the Springfield shells or bullets, they could only have fired them out of the Springfield gun; but there is no proof that anybody else had a Springfield gun at Brownsville at that time, except the soldiers of the Twenty-fifth Infantry. Now, with the permission of Senators, I shall proceed.

Thus we find, Mr. President, these bullets, peculiar and distinctive from all others, and only in the possession of these soldiers, as the bullets which were fired into the houses of Brownsville. Thus we find on them the marks of the four lands made by the Springfield rifle, with which these soldiers were armed. Thus we find the empty government shells picked up in the streets, and bearing marks of having been recently fired. Thus we find the undisputed proof, that if these bullets were fired from these shells, they could not have been fired from any other gun then known or in use, except the Springfield rifle, model 1903, with which these soldiers were armed.

It may be said that others may have, in some way, procured from the soldiers these Springfield cartridges, with their antimony bullets, and fired them into the houses. If so, they must also have procured Springfield rifles, for they could not have been fired out of any other gun than the Springfield rifle, and there is no pretense that anybody else at Brownsville had that gun except the soldiers.

With this chain of evidence complete and unbroken and incontrovertible, all of which could not possibly exist and the soldiers still be innocent, can there remain room for doubt as to their guilt?

While it may be charged that witnesses were prejudiced, or that they exaggerated their capacity to see and identify the guilty raiders, these facts and circumstances, about which there is and can be no controversy, it seems to me, must establish beyond reasonable doubt or uncertainty the fact that the soldiers committed the outrages and murder on the night of August 13–14, 1906.

But that is not all, Mr. President. Not only did 15 or 20 reputable witnesses swear they saw and recognized the raiders as soldiers; not only was it proven beyond the possibility of doubt that the shells picked up in the streets were government shells, and that the bullets shot into the houses were government bullets, and that this shell and this bullet forming the cartridge could not have been fired from any other gun than the Springfield rifle, which only the soldiers had, but 5 witnesses testified that shots were fired from within the walls of the reservation. Three of these witnesses swore that shots were fired from the upper gallery or porch of B Company quarters. These witnesses were corroborated by another circumstance, convincing in its nature, and that is, an examination of the course and alignment of the bullets which were fired into the Yturria house, at the corner of Cowan alley and Garrison road. That house is surrounded at that point by a solid board fence some 6 feet in height. The bullets which entered the house—the fence was not struck—ranged down, the place of exit being nearer to the ground than the place of entry. A number of witnesses made careful examination of the range of these bullets and from the alignment were able to locate with approximate accuracy the point from which the bullets were fired, and all of them agree that they must have been fired from an elevation above the ground. This must have been so, or the fence would have been struck, and the range of the bullets would not have been downward. They say that they could not have been fired from any other place than from the upper porch of B Company quarters. If these witnesses and these circumstances establish the fact that shots were fired from the upper gallery of the barracks, inside the reservation, then it would seem to follow irresistibly that the soldiers, who alone occupied the quarters, must have done the firing.

But it is said that it is unreasonable to suppose that men who were starting out to raid and shoot up a town would first fire within the reservation, and thus arouse the garrison. Upon the other hand, Mr. President, that was the most natural and reasonable thing for them to have done to enable them to do their bloody work and yet conceal their identity. Even if there was no understanding with the guard, and I am inclined to think there was some understanding of that kind—though I confess the proof is not distinct upon that—that they should give the alarm and sound the call to arms. Being soldiers of experience, they knew that as soon as such a terrific firing began inside of or near to the garrison, the natural and inevitable result would be the call to arms and the consequent turmoil and confusion which would follow. They knew that in the midst of the darkness and confusion, when men who were not actually engaged in the raid were coming out of their quarters with their guns, they could easily join them *with their guns*, and thus escape detection. And that, in my opinion, is exactly what occurred.

It must not be overlooked that at once, as soon as the call to arms was sounded, soldiers began to circulate the report that the garrison was being attacked, and so successful were they in repeating this unfounded story that they actually convinced their white officers of its truth, though no shot was fired at the barracks, no shot struck them, and the firing was constantly going from the garrison and not toward it. It diverted suspicion from the soldiers and undoubtedly contributed to their escape without detection.

If those who sounded the call to arms had been in league with the raiders they could not have hit upon a plan better calculated to enable the midnight marauders to join their companies and conceal their identity. The barracks were in darkness. No lights were burning. Everything was in confusion. The formations were being made on the campus with the barracks between them and the town. There were entrances to the barracks from the town side, and nothing to hinder the returning marauders from entering that way, passing through the buildings, and joining their companies, and no one could tell whether they procured the guns which they carried from the gun racks in the quarters or brought them fresh from the scenes of their murderous assaults.

Now, Mr. President, what defense is offered to this mass of positive and circumstantial evidence, so incriminating in its nature? First, it is said the enlisted soldiers swore they were not guilty, and though it has been more than two years they have not yet confessed it. Would any one, of common observation of men, expect that they would have sworn that they were guilty, even if they were? Do men usually admit that which would place a halter about their necks?

Why, Mr. President, it is hardly to be supposed that those who actually participated would certainly have confessed their guilt.

Right here I want to say that I give no credence whatever to the alleged confession of one of these soldiers, as reported by the detective and sent to the Senate in the recent message of the President of the United States. I base the conclusions which I have reached in this case upon the testimony taken before the Committee on Military Affairs and upon the testimony taken otherwise.

I have had some experience with detectives in the practice of the criminal law. I would not charge that detectives as a class are unworthy of belief, but, Mr. President, with my experience, if I were sitting upon a jury sworn to do justice according to the law and testimony, I would be very slow to base a verdict of guilty upon the unsupported testimony of any detective that I ever heard testify in a court of law, and I never heard of a negro detective who signed his name with his mark upon whose testimony I would base a verdict of guilty.

I do not know anything as to the matter of the conduct of these detectives about which we are told in the President's message; neither do I propose to stop to discuss the question of the lawful use of the money in the Treasury in the payment of those detectives. I stop at this point merely to make plain that I do not base my conclusions in the slightest degree upon the alleged confessions made to one of these detectives by Boyd Conyers.

It will be borne in mind, Mr. President, that the controversy is, not what particular soldier was engaged in the riot, but was any soldier so engaged. So that the testimony of the soldiers should have little more weight than would the testimony of a number of defendants jointly charged with the commission of a crime.

Mr. SMITH of Michigan. Mr. President——

The VICE-PRESIDENT. Does the Senator from Tennessee yield to the Senator from Michigan?

Mr. FRAZIER. I do.

Mr. SMITH of Michigan. I should like to ask the Senator from Tennessee right there, if he wants to be understood as saying that, if any soldier of that battalion was engaged in the shooting, all the soldiers of the battalion are guilty?

Mr. FRAZIER. Oh, no, Mr. President; I did not say any such thing. I said in the early part of my remarks—and I repeat it, for I believe the Senator from Michigan was perhaps not in the Chamber at that time—that if some of these soldiers were engaged in this affray, if they committed these outrages and this murder, and, after the most careful and searching and diligent investigation, it was impossible to separate the guilty from the innocent, then, to a certain extent, the entire battalion became contaminated, and I do not believe that it was for the interests of the army or of the country to have them taken back into the army.

Mr. SMITH of Michigan. Mr. President, if I am not disturbing the Senator from Tennessee——

Mr. FRAZIER. The Senator will not disturb me by asking me a question.

Mr. SMITH of Michigan. I should like to pursue the inquiry a little further. Now, suppose a midnight assassin was to enter the home of a defenseless person, take his life, and then escape to the great body of the people, where the identity of the particular assailant could not be ascertained, does the Senator from Tennessee believe that the whole body of the people would be guilty because, forsooth, they could not fix the guilty one with definiteness?

Mr. FRAZIER. O, Mr. President, the Senator knows that I do not believe any such thing as that.

Mr. SMITH of Michigan. Well, then, I want to ask one more question. How many men of this battalion were in the hospital sick and unable to participate in such a crime the night it is said to have been committed?

Mr. LODGE. I think there were two.

Mr. FRAZIER. I am not advised, Mr. President, or rather I do not recall at this moment, how many of them were in the hospital, although possibly there were some.

Mr. SMITH of Michigan. The Senator from Massachusetts [Mr. LODGE[says that there were two in the hospital.

Mr. LODGE. That is as I remember, but I am not sure.

Mr. SMITH of Michigan. If there were two in the hospital, are they guilty; and if they were in the hospital, should they be convicted by a proclamation?

Mr. FRAZIER. Mr. President, I do not recall, as I say, whether or not there were any soldiers in the hospital, and that is not very material to the point I am making.

Again, it is said that the soldiers could not have committed the crimes charged, because about the time the firing ceased the companies were formed, the rolls called, and all of the soldiers were reported present or accounted for. But it must be borne in mind that the men who called the rolls, and the men who answered not by name, but merely present, were the soldiers charged with the commission of the crimes. But if full credence be given to the testimony of those soldiers, who claimed to have called the rolls, and found all present or accounted for, it in no wise militates against the conclusion that certain soldiers were in the riot and did the shooting, for abundant time elapsed after the shooting ceased, and before the rolls of the company were finally completed and verified, for any soldier who participated in the riot to have returned and answered to his name. It will be remembered that the greatest distance from the reservation at which any of the firing took place did not exceed 350 yards. That those participating in the crime could have run back, gone into the reservation and into the quarters and joined their companies being formed in front of the barracks and answered to their names, is conclusively proven by the testimony of at least two of the soldiers themselves.

There were entrances to the quarters from the side next to the garrison road, and there were stairways on that side which returning soldiers could have mounted and then come down from their quarters and out to the front and joined their companies; or, in the darkness and confusion of the formation, they could have passed directly through the buildings from the side nearest to the garrison road and the town and gone out where the companies were being formed and no one could have detected those who thus came in from those already in the quarters. Quartermaster-Sergeant Taliaferro was sleeping, as he swore, in the administration building, located near to D Company barracks, and when the firing began he dressed and went back of the officers' quarters and around them and finally to the door of Major Penrose's residence and knocked or rang the bell and, receiving no response, passed on, maneuvering, as he stated, along a depression in the ground, until he came to the hospital, and finally to the guardhouse, and thence to Major Penrose in front of the quarters, where the men were being formed. He thus traversed a distance of over 800 yards, and yet when he reached the companies, the rolls were being called and the companies were being formed. The men who did the firing had to traverse a distance of only 350 yards. They were dressed. He had to dress to go out of his house.

Corporal Miller testified that he was out on pass that night. He had been across the river to Matamoras, in Mexico, and returned during the early part of the evening and visited at a kinsman's house in the town, and from there went to a gambling house near the corner of Twelfth and Adams streets, and was engaged in gaming at the time the firing occurred. He remained there until the firing ceased and then started for the barracks. In going from the gaming house to the barracks he had to travel at least two blocks, and possibly three blocks, farther than the men who had done the firing had to travel to reach the barracks, and yet he reached the reservation, entered it, joined his company as it was being formed and the roll was being called. And no one knew when he came in or how he got there. This demonstrates clearly that the raiders had ample time, after they had done their bloody work, to hasten back to the reservation, and in the darkness and confusion of the night incident to the call to arms to join their companies and answer to their names.

Another witness whose testimony it was not attempted to either impeach or to contradict, and whose standing as a citizen and a man was above reproach, an ex-federal soldier, a man who had been more than twenty years in the employment of the telegraph company and who had served the greater part of the four years of the civil war in the telegraph service of the federal army—Mr. Sanborne—was sleeping in the room adjoining the telegraph office at the rear of the building, at the corner of Elizabeth street and Garrison road. About the time the firing ceased, and while looking out of the window which opened on the Garrison road, he saw a man whom he recognized under the lights over the gate of the entrance to the reservation, only 30 feet from him, as a negro soldier, come along Garrison road from the direction of Cowan alley, carrying his gun, and saw him enter the gate and go into the garrison. This soldier, undoubtedly, was returning from the firing squad, and joined his company and doubtless answered the roll call when it was taken, and reported "present," and yet he came in from the town with his gun after the shooting ceased.

It is further claimed by those who deny the guilt of the soldiers, that they could not have procured their guns from the gun racks. These gun racks were located in the quarters of the men, and the keys to them were in the possession of the colored officers in charge of the quarters. It will thus be seen that the very soldiers who are charged with the commission of this crime had the keys to these racks. How the keys were secured from those charged with their possession, or whether other keys were used, does not, of course, appear from the evidence, but that the gun racks were opened and that the rifles were in the hands of the soldiers is proven by the overwhelming weight of testimony adduced before the committee. Certainly, the soldier Sanborne saw enter the gate with his gun, after the shooting ceased, had his gun out of the gun racks.

It is claimed that an inspection of the guns next morning did not disclose that any of them had been recently fired. But it will not be forgotten that when the guns were replaced in the gun racks after the firing, the keys to those gun racks were still left in the hands and custody of the enlisted men charged with the commission of the crime, and the same keys that unlocked the gun racks when the guns were taken out to make the raid doubtless unlocked the gun racks to take them out for the purpose of wiping them out after the white officers had left the quarters. That this was possible and probable is shown by the report of Major Penrose, in which he says:

> Some one of them must have had a key to the gun racks, and after check roll call was taken—for all were reported present at 11 p. m. roll call—they slipped out of quarters, did the shooting, returned while the companies were forming, and at some time during the early hours of the morning cleaned their rifles. *This is made possible from the fact that the shooting all occurred within two short blocks of the barracks.*

There is much contradiction in the proof as to the time required to clean a gun after it has been fired, but from experiments actually made by competent and reliable officers, and other testimony of witnesses of unquestioned integrity not involved in this unfortunate affair, it has been established, as I believe, by the weight of testimony that where a gun is cleaned within a few hours after having been fired it can be wiped out and cleaned, either in the light or in the dark, so as to pass inspection within the space of two or three minutes.

It is further claimed that the soldiers could not have committed this crime, because all the ammunition with which they were charged was accounted for. But the testimony of practically all of the witnesses, except the negro soldiers of the Twenty-fifth Infantry, was to the effect that soldiers almost universally had a surplus of ammunition in their lockers, or elsewhere concealed, and that it was easy for them to procure this surplus ammunition. Even the white officers of the Twenty-fifth Infantry so testified. In fact, it was the universal and unvarying testimony of all the soldiers who testified, except the negro soldiers themselves. They, with suspicious uniformity, swore that it was impossible for them to get extra ammunition, while everybody else swore that it was easy and practically universal. They could get it on the target range, where it was carried out in boxes and given to them for practice and no account or record kept of what they used.

The Senator from Ohio lays much stress on the fact that the ammunition with which each company of the Twenty-fifth Infantry was charged was accounted for, and yet he says that the Twenty-sixth, who preceded the Twenty-fifth at Brownsville, had so much surplus ammunition that clips of it, given away by the soldiers, adorned the bars of the saloons in Brownsville, and was even left lying around the quarters when they went away, to be picked up by visitors.

On the one hand we are asked to believe that citizens procured and had enough of this surplus ammunition which they could only have procured from the soldiers to shoot up their own town, and on the other we are asked to believe that the soldiers themselves could not possibly have procured any surplus ammunition, and hence could not have had any with which to do the shooting. However they may have procured this ammunition, it can not be questioned that both empty shells and unexploded cartridges of the government manufacture were found in the streets of Brownsville immediately after the shooting occurred nor that government bullets were taken from the houses shot into that night, so that somebody must have had a surplus of ammunition, and there is no evidence to show that anybody else had it other than the soldiers of the Twenty-fifth Infantry.

Mr. President, was there a motive for the soldiers to have committed this outrage? It is said that there was no adequate motive to have moved the soldiers to commit those crimes. No motive is adequate, Mr. President, for the commission of murder, and yet murders are committed. What may be a compelling motive for one man may not be so for another. Murders are committed almost daily throughout this broad land, to the shame of the American people, for causes which, to a man of high moral instincts, would seem to furnish utterly insufficient motive. Murders have been committed for a few paltry dollars, for some fancied wrong, and sometimes in wanton, devilish cruelty.

That the occurrences preceding and following their arrival at Brownsville were such as to arouse in the negro soldiers a feeling of resentment, if not of retaliation, toward some of the people of Brownsville I do not think can be questioned. It can not be doubted, from the testimony taken before the committee, that the soldiers knew that some of the citizens of Brownsville objected to and had protested against their being stationed at Fort Brown. Neither is it reasonable to suppose that the colored soldiers, who were denied the privileges of the bars patronized by white people, which they had been accustomed to enjoy elsewhere, did not resent what they regarded as a discrimination on account of their race.

No one, Mr. President, not familiar with the real character of the negro race knows or can fully appreciate the intensity of feeling with which he resents any apparent discrimination against him on account of his race and color. This is strikingly illustrated in the intense opposition of the negro to those laws in effect in some States, providing for the separation of the races in railway coaches, even where the accommodations are equal and exactly alike. It was admitted by many of the soldiers in their testimony that this subject, together with the subject of other indignities which they claimed had been inflicted upon some of them, were frequent matters of discussion in the barracks of the soldiers.

So much did the soldiers feel what they regarded as a discrimination against them by the saloons of the town that one Allison, a discharged soldier of the Twenty-fifth Infantry, opened a bar on the garrison road near to the reservation on pay day, which was Saturday before the outbreak on Monday night following. This bar was so popular with the men and was so freely patronized by the soldiers that, as one witness stated, it took four or five bartenders to wait upon the patrons. There, in that den of vice, was in all probability hatched the diabolical plot which culminated in riot and murder.

There had been several difficulties, or what the soldiers regarded as indignities, inflicted upon them since their arrival at Brownsville by customs officers. The soldier Newton had been knocked down on the street by Mr. Tate, a customs officer, because he claimed the soldier had been rude and offensive to his wife and other ladies. Another soldier, Reed, had been knocked or pushed off the gangway into the mud at the ferry which plied between Brownsville and Matamoras. Another customs officer had struck a negro soldier in a barroom, as related by Lieutenant Thompson, because he sought to drink at the same bar with the officer and remarked that he was as good as any white man. These and other instances enumerated in the testimony taken would naturally arouse the prejudice and enmity of the soldiers against certain people of Brownsville.

It was evident from the testimony that the incidents to which I have referred, and others, to which for want of time I have not alluded, taken in connection with the order issued by Major Penrose, on the evening of the 13th, recalling all passes and prohibiting the soldiers from leaving the reservation, had undoubtedly wrought the soldiers up to a high state of resentment, and doubtless kindled in their minds a spirit of retaliation and revenge. While it is true that in the consideration of a case such as this the presence or absence of a motive for the commission of a crime is a circumstance to be looked to, even the entire absence of a motive is not sufficient to overcome or annul facts otherwise proven and established. If the soldiers had a motive, and I believe that the testimony in this case clearly establishes that fact, then it is a circumstance to be looked to to prove their participation in the riot. If there was an absence of sufficient motive on the part of the soldiers to shoot up the town, how much more was there an absence of motive on the part of the people of Brownsville to shoot up their own town and kill their own neighbors. It may be that there was feeling on the part of some of the people against the soldiers, as there was on the part of the soldiers against some of the people; but there was no feeling on the part of the people against themselves, nor of one part of the people against any other part.

And the soldiers were not attacked. No shot was fired at them. No bullet entered the barracks. No soldier was injured. The attack was on the people of the town, and it was a deadly, malevolent attack. The shots were not fired in the air to frighten, but into the houses and at the people, to kill. Not at one house or at some individual to satisfy a personal revenge, but at many houses and at many people, showing that those who fired them were moved by a deadly, murderous purpose, to seek revenge upon and terrorize a whole people.

The Tillman Saloon and the Tate house were clearly the objective points of the raiders, for when they had finished their deadly work there they turned and fled back to the post. Tillman had refused to serve the negro soldiers with white people at his bar, and had been loudest in his opposition to the soldiers being sent to Brownsville. Tate had doubtless incurred their enmity by what they regarded as an unjustifiable assault on one of their comrades. In their murderous foray they seemed to have especially directed their fire at the house of Louis Cowan, who had been loud and noisy in his objections to and denunciation of the negro soldiers, especially on account of the Evans affair, in which it was charged that Mrs. Evans had been dragged from her horse by a negro soldier. After the Cowan house, the Miller Hotel seemed to be the especial object of their attack. Its proprietor, Mr. Moore, had likewise done much talking in opposition to the negro soldiers being stationed at Brownsville. In short, the places singled out for especial attack were the very places against which the soldiers had some ground for enmity and ill will.

Finally, Mr. President, if the soldiers did not commit these offenses, who did? No proof whatever was offered before the committee which points to the guilt or even tends to implicate any others than the soldiers. Various theories have been suggested, based on the merest speculation, but one after another has been abandoned, because not an iota of proof has been obtainable to show that any other people had either a motive or the opportunity to have committed these crimes.

It was first suggested that possibly Mexican soldiers might have crossed the river and raided the town, though no motive for having committed such a crime could be found. But when

it appeared from the proof that the bullets extracted from the houses which had been shot into on the night of the 13th and 14th of August could not have been fired from the Mexican mauser, with which the Mexican soldiers were armed, because the bullets were larger than the bore of that gun, that theory was abandoned.

It was then suggested that the Texas Rangers might have committed the crimes, though no possible reason or motive for them to have done so was suggested. But it was proven that no Texas Rangers were in that part of the State, and that they were not armed with a gun out of which the cartridges used could have been fired. So that theory was abandoned.

It has been suggested that smugglers might have committed the crimes, but not one syllable of proof was adduced before the committee, even tending to show that there was any organized band of smugglers in that vicinity at that time, or that they were armed with high-power rifles, or government ammunition, or that they had any motive to raid upon and shoot up the town of Brownsville. Nobody saw a smuggler. Nobody heard of a smuggler being in or near Brownsville on the night of the raid.

It is suggested in one of the minority reports that possibly the saloon keepers of Brownsville committed these offenses for the purpose of driving the soldiers away from Brownsville because they were not receiving the profits from their trade.

Mr. President, it was because of their own action that the saloons did not receive the trade of the soldiers. But is it conceivable that the saloon keepers could have organized themselves into a band of 10 to 20 men, armed with high-power rifles, and gone through the streets of Brownsville and not have been identified by any of the many residents who saw the raiders? And is it probable that such saloon keepers would have gone to the Tillman Saloon and in cold blood murdered one of their own number, and he a young man scarcely more than a boy in years, against whom no man in all that city had aught of ill to say, either before or after his untimely death? This theory, from the evidence, is as groundless as the many others that have been suggested and abandoned for want of proof to give them even color of plausibility.

Finally, Mr. President, it has been charged that the people of Brownsville themselves shot up their own town and murdered their own citizen, with a view of laying the blame at the door of the negro soldiers for the purpose of securing their removal from Brownsville. This charge, Mr. President—which has been distinctly made, I believe, by some of the negro soldiers only, though it has been suggested and insinuated by others—is a gross, unwarranted, and an utterly unsupported slander upon the people of Brownsville. It challenges their intelligence as well as their character as a law-abiding people.

Let us view it for a moment in the light of known and admitted facts, and put to it the test of common sense. We are asked to assume, for there is absolutely no proof, that a band of 10 to 20 citizens organized themselves, procured high-power rifles, clothed themselves in the uniforms of United States soldiers, blacked their faces, and thus equipped, deliberately marched through their own city, in the midst of their own homes and those of their neighbors, and shot into houses where innocent women and children were sleeping, endangered the lives of unoffending citizens, and finally wounded their old, faithful, and popular lieutenant of police, and murdered in cold blood one of their own citizens.

But that is not all, Mr. President. Our credulity must be put to a still further test. We are asked further to assume, in the absence of proof, that these people stole from the quarters of the soldiers empty shells (though no shells were missed), and not only scattered them upon the streets at the points where the firing occurred, but that in the darkness of the night they were able to find and pick up, and that they did find, pick up, and remove every shell which they themselves fired, and which their high-power guns scattered as they fired; all this, with the hope and for the sole purpose of laying the blame upon these negro soldiers, that thereby they might possibly induce the Government to send them elsewhere, though they had not even petitioned or asked the Government to remove them.

Mr. President, I think Senators will search in vain for an instance, either in Ohio or Texas or elsewhere, where white men have ever been known to kill each other to be relieved of the presence of objectionable negroes. The suggestion is so grotesquely absurd that it would seem to tax the credulity of the most partisan friend of the negro soldiers.

Finally, Mr. President, it must not be forgotten that we are not trying men for a felony, where a reasonable doubt would insure an acquittal; we are not trying men for murder, where a conviction would involve their incarceration or death; we are considering one question only, and that is, Is there sufficient evidence of the guilt of these men to make it unwise and improper to restore them to the ranks of the army? Mr. President, what character of men should constitute the American Army? Shall they be men who respect the law and afford protection to defenseless citizens? Shall they be men who come with clean hands? Or shall the army have in it men whose hands are stained with the blood of innocent citizens?

Mr. President, I desire now briefly to consider the bills introduced by the Senator from Ohio [Mr. FORAKER] and the Senator from Missouri [Mr. WARNER]. I am opposed to both bills. Not because the men proposed to be reenlisted are negroes, but because the testimony taken before the Military Committee, in my judgment, clearly shows that at least a part of these men are guilty of the grossest crimes, which totally unfits them for service in the army, and because it is utterly impossible to ascertain which ones are guilty and which ones are innocent of those crimes.

The bill introduced by the Senator from Ohio, to all intents and purposes, reviews, annuls, and sets aside the order of the President discharging the soldiers of the Twenty-fifth Infantry and provides that any one or all of them may again enlist upon swearing that they were innocent of participation in, or had any guilty knowledge of, the affray at Brownsville. It further restores to them all rights and privileges which they enjoyed before discharge and gives them full pay for the time since their discharge.

Mr. President, I shall not stop to discuss the legal question as to the power of Congress to restore these men to the army. I believe Congress has that power. Congress has power under the Constitution to provide rules and regulations for the government of the army, and I believe it can provide the qualifications for reenlistment and can say in its sovereign capacity as the legislative body what and who shall constitute the army of the United States. But, as I said, I am not going to discuss that question now.

Mr. President, if any of those soldiers were guilty of the crimes committed at Brownsville or, though not actually guilty of participation, were aiders and abettors before or after the fact, this bill provides an easy, certain, and expeditious mode for the restoration to the army of the guilty and innocent alike. If this bill becomes a law, not only will Congress thus set aside and annul the action of the President, who issued the order of dismissal, but every discharged soldier who desires it, however stained his hands may be with the blood of innocent people, will again be enrolled in the army of the country. And the President, should he approve it, will repudiate his own act and confess himself a blunderer and a wrongdoer. Were the soldiers legally discharged? Did the President have the power to discharge those men?

Mr. President, the resolution of the Senate under which this investigation was made, impliedly recognizes, because it does not question, the legality and justice of the President's act in the summary discharge of the men of that battalion. That resolution says:

Resolved, That without questioning the legality or justice of any act of the President in relation thereto, the Committee on Military Affairs is hereby authorized and directed, by subcommittee or otherwise, to take and have printed testimony for the purpose of ascertaining all the facts with reference to or connected with the affray at Brownsville, Tex., on the night of August 13–14, 1906. Said committee is authorized to send for persons and papers, to administer oaths, to sit during sessions or recess of the Senate and, if deemed advisable, at Brownsville or elsewhere; the expense of the investigation to be paid from the contingent fund of the Senate.

Leaving out of consideration the question of the power of the President, as Commander in Chief of the army, to discharge an enlisted soldier before the expiration of his term of enlistment, about which there may be a difference of opinion, it is in my opinion clear that such discretion is vested in him by the Articles of War, which have the force of statutes. Article 4 says:

No enlisted man, duly sworn, shall be discharged from the service without a discharge in writing, signed by a field officer of the regiment to which he belongs, or by the commanding officer when no field officer is present; and no discharge shall be given to any enlisted man *before his term of service has expired* except *by order of the President, the Secretary of War, the commanding officer of a department, or by sentence of a general court-martial.*

That article has been often construed and held to authorize dismissals, such as those contemplated in Special Order No. 266, issued by the President. In fact, it has been almost daily invoked for the past fifty years, and under it hundreds of enlisted men have been yearly discharged from the army without anybody questioning the authority under which they were discharged.

Prior to the act of 1866, the President not only had and exercised the power to dismiss, at his discretion, enlisted men of the

army, but commissioned officers also. By the act of July 17, 1866, Congress provided:

That no officer in the military or naval service of the United States shall, *in time of peace*, be dismissed from the service except upon and in pursuance of the sentence of a court-martial to that effect, or in commutation thereof.

It will be observed that as to the enlisted men the law was left as it was before the passage of that act; that is, they can be dismissed in either of four ways provided by the fourth article of war—either by the President, the Secretary of War, the commander of a department, or a court-martial. Clearly, if Congress had contemplated or intended to take away from the President—if it had the power to do so—the authority to dismiss an enlisted man, it would not have confined its inhibition to "no officer in the military or naval service of the United States." It would undoubtedly have included enlisted men. And the fact that it did not include enlisted men clearly demonstrates that Congress intended to leave the law as to them as it was, as set out and recognized in article 4 of the Articles of War.

In construing the act of 1866 the Supreme Court of the United States, in Blake *v.* United States (103 U. S.) held that, notwithstanding that act, the President had the power to dismiss or supersede an officer of the army, by and with the advice and consent of the Senate, by the appointment of some one in his place.

And in Crenshaw *v.* United States (134 U. S.) that court held that a midshipman in the navy could be thus dismissed or dropped from the rolls of the navy. In that case the court used the following significant language:

An officer in the army or navy of the United States does not hold his office by contract, but at the will of the sovereign power.

If an officer appointed by the President and confirmed by the Senate holds his office "at the will of the sovereign power," surely an enlisted man does not hold his place by any higher right. How can it be insisted, Mr. President, when even in spite of a statute prohibiting the President from dismissing an officer of the army he can still do so by appointing his successor, that he can not discharge an enlisted soldier, where the Articles of War, which have all the force and validity of statutes, authorize him to do so?

But, Mr. President, we have the benefit of an actual adjudication in this case by the courts of the United States. In Oscar W. Reid *v.* The United States, in the district court of New York, this very question of the power of the President to discharge the enlisted men in this case was considered, and that court held that they could be thus discharged. I ask that a portion of that opinion, which I have marked, be inserted in my remarks without reading.

The VICE-PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

Hough, D. J.

Several matters discussed at bar must be laid aside as immaterial to the disposition of this cause.

Whether Reid or his comrades, or any of them, were guilty of the riotous disturbance in question; or whether Reid personally committed any infraction of good order or military discipline; or whether he is in fact a desirable soldier, or knew or withheld anything tending toward the discovery of the perpetrators of the Brownsville riot; or whether, so far as Reid or others are concerned, the President's action was unnecessarily severe, cruel, or unjust, are questions beyond this judicial investigation.

The material inquiries seem to me very few. The nature of a soldier's contract of enlistment has been sufficiently treated In re Grimley (137 U. S., 147). By his contract Reid assumed the burden of military service, not for a definite time, but for three years, "unless sooner discharged by proper authority."

Nothing is expressed in the enlistment papers as to what reasons shall be sufficient for early discharge. And if the engagement be treated merely as a civil contract of hire, the Government would be entitled to dispense with Reid's services under it at any time, provided the authority—i. e., the officer directing discharge or dismissal—be "proper."

In other words, if enlistment be no more than a hiring by civil contract, under this particular contract the corporate master may discharge the servant whenever he pleases and for or without cause, provided only the officer directing discharge be "proper authority."

I do not give assent to the assertion that a soldier's engagement is or bears much resemblance to a civil contract of hire; but on the assumption (most favorable to petitioner) that it is such a contract, it is on the part of the Government a general contract, terminable at will, if that will be expressed through a proper officer. (Martin *v.* New York Life Ins. Co., 148 N. Y., 118.)

This petitioner was, so far as formalities attending his severance from the service are concerned, properly discharged; that is, his discharge paper was correct in form and signature, and so much is not denied. But the "authority" causing and directing his discharge was the President of the United States, who personally gave the order therefor; so that the final question upon assumptions very favorable to petitioner is whether the President, as Commander in Chief of the army, is "proper authority" to terminate in invitum a soldier's enlistment.

This question must be answered affirmatively if either (1) there be inherent constitutional authority in the President, as Commander in Chief, so to do, or (2) there be such authority in the absence of congressional statutory action limiting, defining, or regulating the Commander's powers, or if (3) in this case the President acted in accordance with the various acts of Congress regulating the army and discharges therefrom.

As to the first and second of these last queries, no opinion is expressed, because the last question must, in my judgment, be answered unfavorably to the petitioner.

The Articles of War constitute the only statutory declaration concerning discharges from the military service. (U. S. Rev. Stat., sec. 1342.)

Article 4 provides:

"* * * no discharge shall be given to any enlisted man before his term of service has expired, except by order of the President, the Secretary of War, the commanding officer of a department, or by sentence of a general court-martial;"

and this language has remained unchanged in the statutes since 1806.

I am quite unable to perceive how the President's right to terminate a soldier's engagement could be more explicitly recognized, and indeed conferred, if recognition seems to imply some antecedent right.

This fourth article of war clearly assumes that discharges must be granted before expiration of service; the power to grant them implies the power to impose them, unless a soldier have some rights inherent in his contract or inferable from the nature of his occupation.

This petitioner's contract is civilly but a hiring at the will of the employer, while the nature of his occupation, so far from varying that status, has been frequently so judicially defined as to leave no doubt of congressional intent.

The recruit is bound to serve during the full term of his enlistment, but * * * the Government is not bound to continue him in service for a single day, but may dismiss him at the very first moment or at any subsequent period whether with or without cause for so doing. (United States *v.* Cottingham, 1 Rob. Va., at 629.)

The civil compact usually requires for its dissolution the mutual consent of the parties, but "the military compact may be dissolved at any moment by the supreme authority of the Government." (U. S. *v.* Blakeney, 3 Grat (Va.) at 391; cited Re Morrissey, 137 U. S., at 159.) And this historical view of the soldier's relation to the Government or the Crown antedates the founding of this Nation and is the accepted doctrine of the British military establishment, upon which ours was modeled. (Re Tuffnell L. R., 3 Ch. Div., 173.)

Even if, therefore, there be no inherent power of control over the military forces of the Nation vested in its constitutional Commander in Chief, and even if, also, there be no grant of power contained in that title in the absence of congressional gift thereof (concerning which no opinion is expressed only because I do not find the discussion necessary for this case), the statutory grant contained in the fourth article of war must be interpreted in the light of military practices, customs, and procedure well known and judicially recognized long before the date of the Revised Statutes, and indeed long before the adoption of our earliest Articles of War in 1806, and by those customs so recognized and approved by Congress, the soldier's engagement was but at the will of the Government which he served, and that Government, by authority of Congress, speaks through (for the purposes of this case) the President of the United States.

It is, however, further asserted that some infraction of law was wrought by forcing upon Reid a "discharge without honor." The phrase is not known to the statutes; it is found only in the Army Regulations, which are from time to time promulgated by the Secretary of War, but do not bind either the Secretary that makes them and much less the Commander in Chief. (Smith *v.* U. S., 24 C. Cls., 209.) The exact method of this soldier's discharge and the quantum or kind of character that should be given him, not being regulated by statute, must necessarily be left in the discretion of the executive officer having power to grant some kind of discharge. That it is beyond the power of the judicial branch to coerce or review the discretion of the Executive is familiar doctrine, while that a discharge with a very bad character is not a punishment to the man discharged within the meaning of any federal statute is settled by United States *v.* Kingsley. (138 U. S., 87.)

Mr. FRAZIER. Mr. President, that the men of the Twenty-fifth Infantry were legally discharged from the service, it seems to me, is hardly a debatable question. Then, if they were legally discharged, what reason is there to restore these soldiers to the army which at least a part of them have so signally disgraced? Wherein, Mr. President, does the Government owe any obligation, legal or moral, to any one of these discharged soldiers to reenlist him in its service? Each enlisted under a contract of service which he knew contemplated that he might be discharged any day or hour the Government might conclude the public welfare required it. They were paid for the service rendered. Can it be said that because the Government enlists a body of men, and they have served a number of years, it is bound either in law or morals to keep them in its service, or when legally discharged to reinstate them, when there is about them even a suspicion of crime which would or might even affect injuriously the public service?

Many of us who have investigated this case, or have read the proof, I have no doubt, believe that perhaps 10 per cent of the battalion discharged are actual murderers, or aiders and abettors of murder. Certainly every tribunal which has investigated it has so found. The most searching investigation has failed to point out which were the guilty and which were the innocent. Then, shall the Government take the chance of placing in its ranks murderers, rather than leave out of its ranks some men who may not be criminals, but upon whom certainly rests the suspicion of crime? There are enough American citizens, Mr. President, ready and willing to fill the ranks of our army, who are not only honest and law-abiding men, but who are free from the suspicion of crime. Do we owe nothing to the honor and good name of the army itself, or to the peace and security of the people among whom these men if reenlisted must be quartered? Are all our sympathies to be expended on a body of men a part of whom are, in my opinion, proven to be midnight assassins, and none upon the innocent and helpless people of Brownsville, who were shot and murdered?

It is said that this Government ought not to send these soldiers out into the world branded with a discharge "without honor." I reply that this Government dare not, in justice to its defenseless citizens, again clothe in its uniform and arm with its guns a body of men among whom there are those who have disgraced the one and turned the other upon helpless women and children. The Senator from Ohio pleads for justice for the American soldier. I plead for justice for the American citizen. The American soldier should be the protector and defender, not the assassin of American citizens.

Mr. President, the only prerequisite required by the proposed bill for the reenlistment of these soldiers is that they shall take a prescribed oath. Every member of the First Battalion, Twenty-fifth Infantry, discharged by the President has already taken a similar oath. Notwithstanding such oath, a majority of the committee has found, and so report, that the crimes of August 13–14, 1906, at Brownsville, were committed by members of that battalion. The effect of such finding and report necessarily is that at least a portion of such discharged soldiers have sworn falsely. If the facts sustain that report, and I have endeavored to show that they do, then the logical meaning of the proposed bill is to provide that, upon the guilty soldiers committing perjury the second time, they shall be eligible for reenlistment, and shall be again enrolled in the Army of the United States.

It has been suggested that the guilty would likely not reenlist, because they would not want to bring themselves under the surveillance of their officers. In my judgment, exactly the reverse would follow. The guilty would be deterred by no scruples of conscience from again swearing falsely, and they would regard their reenlistment as strengthening the presumption of their innocence and removing still further the probability of their punishment. They would feel that if Congress interfered once, and by its action shielded them against at least one consequence of their crime, it would do so again if they were enrolled among its soldiery. They would feel licensed to repeat their deadly assaults upon some other sleeping and defenseless people.

Besides, Mr. President, this bill offers a premium on perjury. It provides that if the oath is taken and reenlistment perfected, the soldiers thus reenlisted shall draw pay for the entire time since the date of their discharge. Under this provision each soldier who reenlists, if this bill becomes a law, will draw pay for more than two years, during which time no services whatever were rendered the Government. If these soldiers were legally discharged, and therefore properly out of the army, by what course of reasoning can we justify ourselves in taking from the Treasury money placed there by taxation upon the people and voting it as a pure gift to these men for the period when they were not in the employ of and not rendering any services to the Government? We would be equally justified in voting a bonus to any other of the hundreds of enlisted men who are annually discharged for the good of the service, or even to civilian employees who were legally discharged for the good of the service.

Mr. President, can we afford to pass any measure which provides for or opens the way for the reentry into the army of a body of men from 5 to 15 per cent of whom are shown by the evidence to be guilty of murder and many more of whom were undoubtedly aiders and abettors of such murder, before or after the fact? While it may be true that there are among the men discharged some who are innocent both of active participation in the crime and of guilty knowledge of it, still, so long as the guilty are mingled with the innocent and it is impossible to identify and separate them, the whole body is poisoned and contaminated, and the character and honor and proper discipline of the army and the peace and safety of the people imperatively demand that all shall be excluded from the service. The inconvenience and loss, if there be such, of the individual, even though guiltless of crime, must be made subservient to the public welfare.

Mr. President, the army is supported and maintained by taxation upon the people as an instrument for the preservation of law and order within our own borders, no less than as an instrument of defense against the aggressions of a foreign foe. It must be maintained and disciplined so as to be a protection and not a source of danger to the peaceful citizen and to every community in which it may be quartered. Unless the personnel of its officers and enlisted men and its discipline are such as to furnish indisputable guaranty of such safety and protection to the people, and especially to helpless women and children, the army degenerates into a mob and becomes a standing menace to the peace and order of the country.

In the administration of the military arm of the service the preservation of proper discipline is of supreme and paramount importance. Therefore, to readmit to its rolls a body of men the conduct of a portion of whom has inflicted upon the army "the blackest stain recorded in its entire history," under circumstances which make it hopelessly impossible to separate the guilty from the innocent, would irreparably weaken, if it did not permanently impair, the morale of the army.

It would be a gross injustice to the army itself to admit into its ranks men among whom there are murderers. It would be a still more grievous wrong to the people to again clothe the guilty among them with power and arm them with the weapons with which they may again wreak their vengeance upon a sleeping and unoffending people, encouraged and emboldened by the hope that by a general and concerted silence their identity would be concealed, and by congressional interference they would be retained in or restored to the army if dismissed.

Mr. President, in the conclusions which I have reached in this matter and in the views I have expressed upon it I have been influenced by no prejudice against the negro. I bear him no grudge. I entertain for him no unkindly feeling. I have never favored any policy with reference to the negro that did not recognize his rights as a man and did not assure him equal and exact justice before the law.

I have never failed to condemn every act of lawlessness inflicted upon the negro, and have always demanded for him a fair and impartial trial, when he has been charged with violation of law, it mattered not how atrocious his crime. Mr. President, I know the negro, his faults and his virtues—and he has many virtues. My knowledge and observation of the negro race cover almost the span of my life, for they nursed me in my infancy, played with me in my boyhood, and I have known and studied them in mature manhood. I have prosecuted and defended them as a lawyer; I have tried and passed sentence upon them as a judge; I have exerted the power of the State to shield and protect them against lawlessness sought to be inflicted upon them for grave crimes when I was governor of my State, and many times in pity have I reached out to them the hand of executive clemency, because of their weakness. I recall with gratitude, and I pray God I may never forget, their loyalty and fidelity to those whom they served and loved during the turmoil and strife and bitterness of the civil war. I remember when bloody, devastating war, with all its appalling horrors, raged about my own home, and no white man was there to guard and protect it, with what confidence and security mother and children lay down to sleep at night, because outside of our door slept a black sentinel in whose fidelity we trusted with implicit faith.

If I may be pardoned, Mr. President, for such a reference in this presence, one of the sweetest memories of my childhood is of the old black mammy who nursed me. I remember how, as the shadows of evening would gather, and the soft southern winds would sigh gently through the leaves of the great spreading oaks that shaded my old country home, she would take me in her arms and rock me to and fro and sing me to sleep to the music of those sweet southern melodies that I loved so well.

No, Mr. President, I would do the negro no wrong. I would help him if I could. I would strengthen him where he is weak. I would teach him by practical and industrial education to be a better and more useful man. I would shield him from his own weaknesses and excesses. I would steady his stumbling feet, as he treads the stony way that leads up to his moral and material betterment. And above all, Mr. President, I would have him learn that if he would rise, he must cease to shield and protect the criminals of his race, and must purge it by aiding in their detection and just punishment.

Mr. President, there has been injected into the consideration of this unfortunate affair, largely outside of this Chamber, I am glad to say, a race question, which has no proper place in it. Perhaps it was inevitable. This has been done largely by the negroes themselves and by those to whom they look as their teachers and their guides.

A greater wrong was never inflicted upon the great body of respectable and law-abiding negroes of this country than to place them in the attitude of upholding crime and shielding criminals because they are of their race. That the race question was involved in the causes which led to the commission of these crimes I have no doubt. That it was involved in the treatment of the negro soldiers after the commission of the crimes I do not believe. Mr. President, to those of us who live in the South, where the negroes dwell in great numbers, there is a real race problem, upon which the most thoughtful of our people feel deeply. The exigencies of civil war freed the slave, but the black man remained, and with him a problem unparalleled in its difficulties. Mark those difficulties: Two races, nearly equal in numbers, but utterly and wholly dissimilar. The one educated, proud, and aggressive; the other ignorant, idle, and superstitious. The one with a thousand years of

civilization stretching out behind it; the other but a few centuries removed from barbarism. The one but a generation ago in bondage to the other, yet each made, by law, equal in civil and political rights. Thus situated, they are asked to dwell together, on the same soil and under the same skies, in peace and harmony, without the one race dominating the other.

Mr. President, the people whom I have the honor in part to represent here have dealt fairly, kindly, even generously, by the negro. In education and charity they have paid 95 per cent of the taxes and given him his pro rata share of the benefits. Before the law they have protected him in his equal rights. They have opened to him the avenues of industry and bade him enter, and by honest toil build for himself a home and a competency. But, Mr. President, I would not be entirely frank if I did not say that upon certain phases of the race question they, in common with the rest of the South, have stood, and I believe will ever stand, firm and unalterable. First, never again will the negro race be allowed to politically dominate and control a sovereign State of this Union. To do so would be to enthrone ignorance and give it dominion over intelligence, and to bring back the rapine and utter and reckless debauchery of the reconstruction era. Second, the social barrier which separates the races will never be allowed to be lowered. To do so would destroy the purity and integrity of the white race and shock the sensibilities and outrage the moral sense of the Caucasian race the world over.

Mr. President, for forty years and more, in patience and kindness, the people of the South have wrestled with this problem, which is racial, not political. It is still unsolved. What the end will be only God, in His infinite wisdom, can see. Shall it be that the black race will be deported? If feasible, it would remove the last remaining barrier to the complete unity of the American people. Shall it be a race war—bloody, fierce, exterminating—a war for the survival of the fittest? God forbid. Shall it be amalgamation and the unspeakable horror of a corrupted and inferior race? To allow it would be to destroy that civilization which is at once our strength and our pride. Shall it be that the two races will dwell together, and yet apart, in peace and harmony? To do so without the one race dominating and ruling the other would be to belie the universal verdict of racial history. I do not know. But one thing I do know, Mr. President, that the solution of this problem rests primarily in the hands of the southern white man and the southern black man and calls for the wisest counsel and broadest conservatism of both. I know that it can never be solved by men far removed from its fatal touch and whose minds are not filled with an appalling sense of the deep racial difficulties with which it is hedged about. It can only be solved by those upon whose hearts and consciences it rests as a perpetual burden and who are in honor pledged to its ultimate solution.

Mr. President, we know not what the future holds in store for us as a nation and a people. We can only go forward with hope, trusting that in the providence of God all things may be settled aright and in consonance with the peace and unity of our people and the perpetuity of the Republic. And, as I grow older, Mr. President, and get a broader and, I trust, a clearer view; as I see the men of every section of this Union knit together, closer and closer, by ties of blood and kinship and interest, I am coming more and more to feel that whatever befalls, we of the South who are striving for the right solution of this problem, as God has given us to see it, will have the encouragement and sympathy of the best of those of the North and East and West, who are blood of our blood and bone of our bone; whose hopes are our hopes and whose common destiny is wrapped up in this Republic, founded by our Caucasian fathers for the happiness of their children. [Manifestations of applause in the galleries.]

During the delivery of Mr. FRAZIER'S speech,

The PRESIDING OFFICER (Mr. WARNER in the chair). The Senator from Tennessee will please suspend for a moment. The Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (S. 6484) to establish postal savings banks for depositing savings at interest, with the security of the Government for repayment thereof, and for other purposes.

Mr. CARTER. I ask unanimous consent that the unfinished business be temporarily laid aside.

The VICE-PRESIDENT. The Senator from Montana asks unanimous consent that the unfinished business be temporarily laid aside. Without objection, it is so ordered, and the Senator from Tennessee will proceed.

At the conclusion of Mr. FRAZIER'S speech,

Mr. FORAKER. Mr. President, while this subject is before the Senate, I desire to ascertain whether we can not agree upon a time for taking a vote upon Senate bill 5729 and the amendments which may be offered thereto.

Mr. WARREN. I am sorry to say that I am unable to agree this morning for the committee, because we have had but one speech upon the subject from the other side of the Chamber and there are two or three who have matters in preparation. I am inclined to think we shall reach the time soon, but I could not to-day agree upon a date to bring the matter up for final disposition.

Mr. FORAKER. May I ask the Senator how many there are who want to speak, and when he thinks they will be ready to speak?

Mr. WARREN. I am unable to say that.

Mr. FORAKER. Unless we can get something definite, the Senator understands that it will be necessary for me to move to proceed to the consideration of the bill.

Mr. WARREN. I understand that perfectly, and I would not deny the Senator that privilege if I could. I shall take no offense if the Senator shall at any time move to take up the bill. I think, however, that there might be a better way; but nevertheless it is the Senator's right to move to take up the bill without any agreement regarding it.

Mr. FORAKER. The Senator will see the necessity I am under of trying to get some definite information.

I will give notice that next Monday, if I can not at that time or before then get a time agreed upon for taking the vote, I shall move to proceed to the consideration of the bill. I hope Senators will take notice of that. I do not want to cut anybody off from speaking. I want to give everybody a full opportunity; but the session is fast coming to a close, and if there is to be a vote on the bill in the Senate at all it ought to be taken soon. All Senators appreciate that, I am sure.

On next Monday, then, unless prior to or at that time I can get an agreement to vote, I shall move to proceed to the consideration of the bill.

I have an amendment to offer to Senate bill 5729, which I wish to have printed and lie on the table. I introduced and had printed an amendment heretofore, and this is intended as a substitute for it.

The VICE-PRESIDENT. The amendment will be printed and lie on the table.

THIRTEENTH AND SUBSEQUENT DECENNIAL CENSUSES.

Mr. LONG submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 16954) to provide for the Thirteenth and subsequent decennial censuses, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 21.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 5, 6, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23, 25; and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

"Strike out the proposed amendment and insert in lieu thereof the following:

"And for the enumeration of institutions, shall include paupers, prisoners, juvenile delinquents, insane, feeble-minded, blind, deaf and dumb, and inmates of benevolent institutions."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment as follows: On page 7, lines 11 and 12 of the bill, strike out the words "and had a product valued at five hundred dollars or more;" and in the Senate amendment strike out the words "one thousand;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment as follows: After the word "feeble-minded," in the proposed amendment, insert the following: ", blind, deaf and dumb;" and the Senate agree to the same.

On amendments numbered 24, 26, and 27, the committee of conference have been unable to agree.

CHESTER I. LONG,
EUGENE HALE,
S. D. MCENERY,
Managers on the part of the Senate.

EDGAR D. CRUMPACKER,
EDWIN C. BURLEIGH,
JAMES HAY,
Managers on the part of the House of Representatives.

The VICE-PRESIDENT. The question is on agreeing to the report of the committee of conference.

Mr. BURKETT. Mr. President, I desire to ask the Senator in charge of the conference report a question with reference to amendment No. 7. As I caught the reading of the report, amendment No. 7 was agreed to with such an amendment—if I caught the wording aright—that the provision for the enumeration of the ruptured, crippled, and deformed children under 18 years of age is not included in the bill. That is as I understand the conference report.

Mr. LONG. No provision is made for the taking of the enumeration of this class by the enumerators, but those in institutions are to be enumerated.

Mr. BURKETT. Mr. President, I want to call the attention of the Senator to the point that that action practically nullifies any good intended to be derived from the proposed amendment. The object of the amendment was to have an enumeration of these crippled and deformed persons taken for the purpose of directing the attention of state legislatures to the need of building hospitals for them and also of private philanthropists to the need of the building of such hospitals. There are, as a matter of fact, practically none of these hospitals—comparatively speaking, I mean, of course—for deformed and crippled children. Perhaps three or four States have such hospitals. People who have been interested in them have found that the trouble in getting them established is that they could not make the legislatures understand that there were a good many of this class in the State, or, at least, enough to be worth while to build such an institution, for they have never been able to present the matter in proper form to philanthropists who devote money to hospitals of various kinds. Therefore they have urged that this amendment should provide for enumerating, not the number of this unfortunate class in the hospitals, but that the enumerators should make this report so that it might be used with private philanthropists as well as with state legislatures.

I think the Senator will see, from that statement, that simply enumerating those who are in hospitals does not reach the good that would be attained by the enumeration as contemplated by those who are advocating the amendment. Therefore I should like to hear from the Senator as to whether or not this matter was taken into consideration in the conference committee with the object I have stated in view.

Mr. LONG. Mr. President, in answer to the inquiry of the Senator from Nebraska, I will state that the amendment received very careful consideration by the conference committee, and while the committee sympathized with the purpose of the proposed amendment, yet the difficulty came in its practical operation, if it were incorporated in the bill.

An inquiry similar to this was included in the census of 1890, and the results in securing the information were so unsatisfactory that the committee of conference did not deem it wise to include it in this census. The Director of the Census, in a statement before the Senate Committee on the Census when it was considering this bill, had this to say in regard to this amendment:

Mr. NORTH. Of course I have very deep sympathy with the purpose for which it is proposed. At the same time I am obliged to say that I think it would be much to be regretted if it were put into the law. The schedules for the census of 1890 contained three questions of this character—

Quoting—

Whether suffering from acute or chronic disease, the name of the disease, and length of time afflicted; whether defective in mind, sight, hearing, or speech, or whether crippled, maimed, or deformed—

This part of the inquiry is similar to the Senator's amendment—

the name of the defective, whether a prisoner, convict, homeless child, or pauper.

Every enumerator was required to ask those three questions in every family that he visited, and there was a terrible uproar about it.

* * * * * * *

The difficulties encountered by the enumerators were so serious that practically the questions were withdrawn before the census was completed. The unfortunate experience made it seem desirable to those concerned with the Twelfth Census to omit questions of this character from the schedule.

The Twelfth Census included inquiries in regard to the blind and the deaf and dumb. The results of the effort to take the census of the blind and deaf and dumb were so unsatisfactory that this bill as it passed the House and Senate contained no provision for the enumeration of the blind and deaf and dumb. It was shown that in the last census, while the enumerators found that there were 240,000 blind and deaf and dumb in the country, that after a careful subsequent examination, made after the reports of the enumerators were returned, that the number was reduced to 151,000. Over 80,000 mistakes were made. Over one-third of those returned by the enumerators as blind or deaf and dumb were found on subsequent inquiry to be not of those classes. So this bill, as it passed the House and the Senate, was confined to as few schedules as possible. In the cities there will be but one schedule, that of population, for the enumerators, and in the country there will be two, population and agriculture. The inquiries in relation to manufactures, mines, and quarries will be made by special agents. So, believing that this amendment, if incorporated in the bill, would not obtain accurate information, the conferees on the part of the House objected very strongly to the incorporation of this amendment in the bill, and the Senate conferees yielded. We do, however, include the enumeration of the defective classes when they are in institutions.

The VICE-PRESIDENT. The question is on agreeing to the conference report.

The report was agreed to.

Mr. LONG. I move that the Senate further insist on its amendments disagreed to by the House of Representatives, ask for a further conference on the disagreeing votes of the two Houses, and that the conferees on the part of the Senate be appointed by the Vice-President.

The motion was agreed to; and the Vice-President appointed as the conferees on the part of the Senate Mr. LONG, Mr. HALE, and Mr. MCENERY.

Mr. LONG. Mr. President, I desire to have printed in the RECORD two letters from the Director of the Census, one bearing upon this question and the other upon another subject included in amendment No. 7.

The VICE-PRESIDENT. Without objection, permission is granted.

The letters referred to are as follows:

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF THE CENSUS,
Washington, January 14, 1909.

Mr. JOHN THOMSON,
Free Library of Philadelphia,
1217 Chestnut Street, Philadelphia, Pa.

MY DEAR SIR: Your letter of January 11 is at hand. I regret that your attention and that of others interested was not earlier called to the fact that the Thirteenth Census bill does not provide for the special enumeration of the blind and deaf, and that the enumeration of certain of the special classes is limited to those in institutions only. The omission of a provision calling for the enumeration of the blind and other defective classes as found among the general population was not done without careful consideration, and it was done most regretfully, for I and all my assistants have the fullest sympathy with the work in which you are engaged, and we understand the value of this information in connection with that work. There were three or four considerations which determined our judgment, and you are entitled to a full statement of them.

I. The difficulties and complications attending the decennial enumeration of the population of the United States are increasing so rapidly that it has become imperative to simplify and reduce the range of the inquiries. We have now to deal with a population of whom 15 per cent are foreign born, speaking some twenty or more distinct languages or dialects. It is impossible to secure 65,000 enumerators who can satisfactorily handle the population and agricultural schedules within the time limit allowed, with the necessary accuracy, and at a reasonable cost for the work; much less if they are required to handle, in addition, six or eight special schedules.

With respect to the enumeration of the special classes, it has been found to be impracticable, as a matter of repeated census experience, to attempt to gather information of this character through the ordinary census enumerators; and the futility of such effort was again very forcibly demonstrated at the last census, taken in June, 1900. At that census the enumerators were required to return, on a special schedule, the name, sex, age and post-office address of all persons alleged to be blind or deaf; and the result of this inquiry by the census enumerators showed an apparent total of very nearly, if not quite, 240,000 such persons. This was in the nature of a preliminary return only, the purpose being to have the lists thus obtained serve as the means for securing more specific information through circulars of inquiry addressed to each person said to be so afflicted; but after these special inquiries had been fully made, it appeared that, of the 240,000 persons so reported, only 151,278 were found to be actually suffering from blindness or deafness in the meaning of the census instructions, a reduction of more than 80,000, or between one-third and two-fifths of the entire number reported. The enumerators were paid 5 cents for each return of a blind or deaf person, and so the payment for that number of erroneous returns represents a direct loss of more than $4,000, to which should be added the clerical cost in preparing and sending out the special circulars of inquiry, the only result of which was the elimination, in the end, of a very large proportion of the returns as originally made by the census enumerators; a clear waste of time, energy, and money to no purpose whatever.

With all the paring it has been possible to introduce, the Thirteenth Census will cost not less than $13,000,000, and there is much criticism in Congress and in the press over the expenditure of this great sum of money. To add the inquiry you ask, together with those which must be simultaneously added if any change is made, will increase the cost by at least half a million dollars.

II. It is undoubtedly true, as you will at once admit, that the Thirteenth Census can not provide for a thorough enumeration of the blind, without also covering other classes, like the deaf and dumb, the insane, the feeble-minded, etc., information regarding whom is equally important. The bill as it passed the Senate requires a special enumeration of children who are ruptured, crippled, or deformed, and I have received many letters requesting that a complete census be taken of persons having speech defects, such as stuttering and stammering. I do not question the value, or indeed the need, for securing the names of these unfortunates, with a view to bringing them in touch with opportunities for overcoming their physical defects. Any change in the pending census bill which contemplates an enumeration

of one of these classes must include all classes. No one of these unfortunates is entitled to any more consideration from the Federal Government than any other class. To include them all means the loading up to every enumerator with at least five special schedules of a technical nature and can only result in greatly retarding the progress of his regular work, as was the case in 1890, when a complete census of the special classes was undertaken. The information desired can not be accurately obtained by this means, and much of it, judging from past experience, would have to be thrown away. I do not believe that the half million dollars additional expenditure involved would be, on the whole, money well invested.

III. The Thirteenth Census bill has passed both Houses of Congress and is now in conference, and any change in its provisions in this regard is beyond the parliamentary power of the conference committee. It can only be reached by means of a supplemental act; this, of course, is difficult, but not impossible. It appears, however, from your letter, and from many others I have received, that these special enumerations are desired for the purpose of facilitating the work of various state and local organizations established to aid the afflicted classes. The purpose is above criticism, but the object is state or local, and the question arises, Why should the state and local authorities demand that the Federal Government shall collect data for the state and local authorities, who alone can make any practical use of it?

To me it seems clear that the States themselves, by means of an intermediate census, should collect the information which is desired by their own institutions and organizations along the lines under discussion. This is now done by several of the States—New York, Massachusetts, and Pennsylvania, for instance—and I am hopeful, if the federal census fails to obtain the data desired, that it will result in stimulating a number of States to provide for a state census in 1905, which they ought to take and upon which they ought to rely for this information.

Very respectfully, S. N. D. NORTH, *Director.*

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF THE CENSUS,
Washington, January 11, 1909.

DEAR SENATOR LONG: The amendment to section 8 of "An act to provide for the Thirteenth and subsequent decennial censuses," which relates to the intermarriage of white and negro persons, is open to serious objection, and, if retained in its present form, will not only have a tendency to delay the work, but will also lead to situations in which it will operate to prevent the orderly conduct of the enumeration. This amendment, which refers to an inquiry to be made on the schedules relating to population, is inserted on page 6, at line 8, after the word "Navy," and reads as follows:

"Also each case of intermarriage between a white person and a person of either whole or partial negro blood, specifying whether the husband or the wife in such marriage is of negro blood."

Obviously, the intention of this amendment is to provide the means for securing through the medium of the census enumerators definite information concerning the extent to which these interracial marriages have taken place, and also in what proportion each party to such marriages is of negro blood, but, as a matter of fact, information of this character is already contained on the population schedules of the Twelfth and preceding censuses, and needs only to be fully developed through a special tabulation of the data already in the possession of the Census Office.

The schedules relating to population at each census since and including 1880 have contained inquiries as to the color, sex, relationship to head of family, and conjugal condition of each person enumerated, and it is obvious that a detailed examination of the returns with respect to the considerations named would reveal for each of these censuses, with substantial completeness and accuracy, the facts as to intermarriage between white and negro persons, and, taken in connection with the results to be derived from the returns of the Thirteenth Census, would furnish comparable data covering four consecutive census periods. This information has not heretofore been tabulated because there has been apparently no pressing need, or at least no urgent demand for it, and because, too, the requirements of the work in other directions, under a wholly temporary census organization, have precluded special tabulations of this magnitude. Indeed, the Census Office, of its own initiative, would not feel warranted in undertaking the tabulation of these data for the preceding censuses, in connection with the work of the Thirteenth Census, unless it shall be specifically required and authorized so to do by a special resolution of Congress.

The character of the information now contained on the population schedules of the former censuses is best illustrated by the examples appended hereto, taken from the returns of the Twelfth Census for one or two cities in which cases of this kind are known to be fairly numerous. These returns are secured by the census enumerators as a part of the ordinary routine of their work, and represent as full, if not better, returns than could be hoped to be elicited by the more specific and direct inquiry contemplated by the amendment under consideration. Furthermore, under the requirements of the work at former census periods there has been no special interruption due to the enumeration of such cases; they have been developed, naturally, through the successive inquiries as to color, sex, relationship to head of family, and conjugal condition, and, while there may have been some possible embarrassment on the part of the person supplying the information, no hostility has been aroused against the enumerator on this account, and he has thus been able to secure, quietly probably, all the information of the character mentioned that is possible under any circumstances.

The results to be attained in the direction contemplated by said amendment would be confined, moreover, to a comparatively restricted area, as interracial marriages of this character are prohibited by law in all the territory—except the District of Columbia—comprising the South Atlantic and South Central divisions; in Indiana, Missouri, and Nebraska, of the North Central division; and in Arizona, California, Colorado, Idaho, Nevada, Oregon, and Utah, of the Western division. At the census of 1900 there were 8,833,994 persons of negro descent, and of this number 7,836,267, or very nearly nine-tenths (88.7 per cent), were found in the Southern States; and if the Northern and Western States just mentioned are also included, the number is increased to 8,084,942, or 91.5 per cent. The remainder of the country contained, therefore, only 749,052 persons of negro descent, or less than 10 per cent of the entire number in continental United States in 1900, and it is largely among this small proportion of the negro population that the terms of the amendment would be operative, if at all. White and negro persons legally married in other States are permitted to live in some of the Northern and Western States mentioned, it is true, but allowing for these cases the amendment would be applicable in limited areas only, and would not be productive of nearly as good results, in all probability, as have been and can again be obtained through the ordinary processes of census enumeration, as already illustrated.

An inquiry of considerable significance, however, can be added to the population schedule at the Thirteenth Census, without interfering in any way with the work of the census enumerators, and, if it could be substituted for the amendment which now appears in section 8, it would undoubtedly bring results, even though not altogether satisfactory, of sufficient value to afford the means of determining, periodically, the probable extent to which there has been an intermixture of white and negro blood and also whether the tendency is, on the whole, an increasing or a decreasing one. Such an amendment, if it should be proposed, would read somewhat as follows:

"Strike out in section 8, page 6, line 8, after the word 'Navy,' the words 'also each case of intermarriage between a white person and a person of either whole or partial negro blood, specifying whether the husband or the wife in such marriage is of negro blood,' and substitute therefor the words 'also for persons having negro blood, whether black or mulatto.'"

An inquiry of this character was first made in 1850 and was continued at each census thereafter until 1900, when it was temporarily abandoned. The omission at the latter census was due to the fact that at the preceding census, that of 1890, the law contained a specific requirement for the enumeration on the population schedule of the number of negroes, mulattoes, quadroons, and octoroons, but the attempt to secure information of this character in the detail required was not successful and, as stated in the report for that census: "These figures are of little value. Indeed, as an indication of the extent to which the races have mingled, they are misleading." For this reason no attempt was made at the Twelfth Census to distinguish between negroes of pure or mixed blood, but it has since been concluded, as stated in the Negro Bulletin (p. 15), that "while no competent authority will claim that a census can obtain trustworthy information regarding the intermixture of the two races in the detail in which it was called for by the law of 1889, yet it is not certain that the answers to the simple question about each negro whether he is of pure or mixed blood would be erroneous in so many cases as to deprive the resulting tables of all value." It has been the intention of the Census Office, therefore, under the discretionary authority vested in the Director as to the form and subdivision of the inquiries necessary to secure the information called for by said section 8, to include under the heading of "color" the simple inquiry as to whether black or mulatto, as now specifically provided for in the substitute herein suggested. The results of this more general inquiry at the preceding censuses, so far as tabulated, show that of the total negro population those returned as "mulatto" constituted 11.2 per cent in 1850, 13.2 per cent in 1860, 12.0 per cent in 1870, and 15.2 per cent in 1890; and while it is probable that the reported number of mulattoes is not within 10 per cent of the true number, yet, as again stated in the Negro Bulletin (p. 17), "it is a step away from ignorance to have the observation of many thousand enumerators at four independent inquiries as evidence that in the United States between one-ninth and one-sixth of the negroes were of mixed blood, while in Cuba one-half and in Porto Rico five-sixths have been so classed by the census."

I trust, therefore, that, in the light of the facts and conditions herein stated, the amendment to which they refer may be stricken out and, if it shall be deemed advisable, that the inquiry suggested may be substituted in lieu thereof.

Very sincerely, S. N. D. NORTH, *Director.*

Hon. CHESTER I. LONG, *United States Senate.*

Intermarriage of white and negro persons, as shown by the returns of the Twelfth Census.

[Abbreviations: Color—W. for white; B. for black. Sex—M. for male; F. for female. Conjugal condition—M. for married.]

Relation to head.	Color.	Sex.	Conjugal condition.
Head	W.	M.	M.
Wife	B.	F.	M.
Head	B.	M.	M.
Wife	W.	F.	M.
Head	B.	M.	M.
Wife	W.	F.	M.
Head	B.	M.	M.
Wife	W.	F.	M.
Head	B.	M.	M.
Wife	W.	F.	M.
Head	B.	M.	M.
Wife	W.	F.	M.
Head	B.	M.	M.
Wife	W.	F.	M.
Head	B.	M.	M.
Wife	W.	F.	M.
Head	B.	M.	M.
Wife	W.	F.	M.
Head	B.	M.	M.
Wife	W.	F.	M.
Head	B.	M.	M.
Wife	W.	F.	M.
Head	W.	M.	M.
Wife	B.	F.	M.
Head	B.	M.	M.
Wife	W.	F.	M.

OMNIBUS CLAIMS BILL.

Mr. FULTON. Mr. President, I understand the Senator from Wyoming [Mr. WARREN], in charge of the legislative, executive, and judicial appropriation bill, desires to take up that bill. Am I correct?

Mr. WARREN. Mr. President, I think I ought to say that I have a conference report here, which I hope will take no time except to read it. Then, agreeably to the notice I gave yesterday, I desire to take up the appropriation bill and proceed with the few amendments remaining, excepting those increasing the salaries of judges. We are awaiting information from the Treasury Department which may not come until to-morrow morning, and we may be compelled to let the bill go over until

to-morrow for the consideration of those items. I say that for the information of the Senator and of the Senate.

Mr. FULTON. Then, I will ask that the omnibus claims bill may be temporarily laid aside. I will call it up later.

The VICE-PRESIDENT. Without objection, it is so ordered.

COMMISSIONS OF RETIRED OFFICERS.

Mr. WARREN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 653) to authorize commissions to issue in the cases of officers of the army retired with increased rank, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate to the amendments of the House, and agree to the same.

F. E. WARREN,
N. B. SCOTT,
J. P. TALIAFERRO,
Managers on the part of the Senate.
J. A. T. HULL,
JAMES HAY,
Managers on the part of the House.

The report was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WARREN. I now ask the Senate to resume the consideration of the legislative, and so forth, appropriation bill.

By unanimous consent, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 23464) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1910, and for other purposes.

Mr. WARREN. Mr. President, I send to the desk an amendment which I offer on behalf of the committee. It covers the matter which was overlooked in the original consideration of the bill.

The VICE-PRESIDENT. There is a pending amendment. Does the Senator desire that that shall be passed over?

Mr. WARREN. I desire that that shall be passed over for the present, as we are awaiting some information, and I note the absence for the moment of the Senator from Georgia [Mr. BACON], who called for it and who will again be in his seat in a few moments.

The VICE-PRESIDENT. The pending amendment will be passed over.

Mr. CLAY. While we are on that proposition, will the Senator allow me to ask him a question?

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from Georgia?

Mr. WARREN. I do.

Mr. CLAY. We passed a law within two or three years, probably last year, providing that federal circuit judges in traveling over their districts should be paid, my recollection is, not exceeding $10 a day for their expenses. I think that does not apply to the district judges, who, when they hold court at different places in their districts, have to pay out of their own salaries their railroad fares, hotel bills, and other expenses. I ask the Senator is that true?

Mr. WARREN. If I may have the attention of the Senate for a moment, I will give the history of that matter, as I understand it. The law which provided for the circuit courts of appeal was enacted in 1891. When enacted it named the cities in which court should be held, and confined it to one city in each circuit. It also provided for the traveling expenses of the judges of the circuit courts of appeal and for such district judges as might be called upon to sit, and while sitting, with the circuit courts of appeal judges at not exceeding $10 a day. That went along until by various acts we have amplified the law by providing for the holding of court in different cities within the circuits, which naturally makes the expense much larger than when the law was first enacted.

After the impeachment trial of Judge Swayne before this body, we provided in an appropriation bill that the circuit judges of the circuit courts of appeal should have not to exceed $10 a day, and that it should be for their actually incurred expenses, to be duly and explicitly certified. Last year, if I mistake not, the Senate provided in the sundry civil bill that the district judges should have a per diem of, I believe, $6 a day for such travel as was necessary within their districts when holding court away from home; but, unfortunately, that amendment of the Senate was lost in the conference, so that at the present time district judges receive no allowance for traveling expenses within their districts, but do receive their expenses, not exceeding $10 a day, when going outside their districts on special business.

Mr. SMITH of Michigan. Mr. President——

The VICE-PRESIDENT. Does the Senator from Wyoming yield to the Senator from Michigan?

Mr. WARREN. I do.

Mr. SMITH of Michigan. They receive this allowance in going into the circuits of which their districts are a part or any other circuit in which they may be called.

Mr. WARREN. That is, they receive so much for each day.

Mr. SMITH of Michigan. Not to exceed $10.

Mr. WARREN. So much as they may expend, not exceeding $10.

Mr. SMITH of Michigan. And the expenses must be itemized and certified to.

Mr. WARREN. Yes. I now ask that the amendment offered by me may be stated.

The VICE-PRESIDENT. The amendment proposed by the Senator from Wyoming will be stated.

The SECRETARY. On page 6, line 18, after the word "each," it is proposed to insert the following:

Assistant clerk to Committee on Fisheries, $1,440.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

Mr. CULBERSON. Is that amendment recommended by the committee as necessary?

Mr. WARREN. It is.

Mr. CULBERSON. How many clerks have they?

Mr. WARREN. They have one clerk and one messenger.

Mr. CULBERSON. It seems to me, Mr. President, that we are increasing the officers of the Government very fast.

Mr. WARREN. Mr. President, I think this is the only increase of the kind in the bill, and the representation of the business in that committee by the chairman of the committee appears to justify the amendment. I think the chairman is now employing two men besides the present authorized force, and paying them from his own pocket, and it was thought best to give him this additional clerk.

The VICE-PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WARREN. In consequence of the amendment just adopted the total should be changed from $42,920 to $44,360.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 6, line 19, in the amendment heretofore agreed to, it is proposed to strike out "forty-two thousand nine hundred and twenty" and insert "forty-four thousand three hundred and sixty."

The VICE-PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WARREN. Now, if the Secretary will turn to page 38, there is an amendment in lines 16 and 17 in regard to which the Senator from Idaho [Mr. HEYBURN] wishes to address the Senate.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 38, line 16, after the word "dollars," the Committee on Appropriations reported an amendment, to insert "1 assistant, $1,800," so as to read:

Indexes, digests, and compilations of law: To continue the preparation of the new index to the Statutes at Large, in accordance with the plan approved by the Judiciary Committees of both Houses of Congress, and to prepare such other law indexes, digests, and compilations of law as may be required by Congress for official use, namely: For 1 chief assistant, $3,000; 1 assistant, $2,400; 1 assistant, $1,800.

Mr. HEYBURN. Mr. President, there is a provision in this bill, on page 38, which reads as follows:

Indexes, digests, and compilations of law: To continue the preparation of the new index to the Statutes at Large, in accordance with the plan approved by the Judiciary Committees of both Houses of Congress, and to prepare such other law indexes, digests, and compilations of law as may be required by Congress for official use, namely: For 1 chief assistant, $3,000; 1 assistant, $2,400; 1 assistant, $1,800; 1 assistant, $1,200; 1 assistant, $900; 2 assistants, at $720 each; in all, $10,740.

The history of this piece of legislation will be interesting to the Senate. In 1906, in the sundry civil appropriation act, this item first appeared. On page 753 of the thirty-fourth volume of the Statutes at Large we find this item, which was the beginning of this legislation. I read it:

To systematize the preparation of law indexes, etc., and to provide trained law clerks therefor: To enable the Librarian of Congress to direct the law librarian to prepare a new index to the Statutes at Large—

I direct particular attention to that—

in accordance with a plan previously——

Mr. WARREN. From what is the Senator reading?

Mr. HEYBURN. I am reading from the thirty-fourth volume of the Statutes at Large, the item in the sundry civil act of 1906.

To resume reading:

In accordance with a plan previously approved by the Judiciary Committees of both Houses of Congress, and to prepare such other indexes, digests, and compilations of law as may be required for Congress and other official use, $5,840 to pay for five additional assistants in the law library.

That is the item of appropriation. It did not pass without receiving the attention of the Senate at that time. The object of the item was to provide for indexing the Revised Statutes from the beginning of the Government up to that time or up to the codification or revision of the laws in 1873. That was the purpose as appears from the consideration of the question at that time. The purpose was meritorious. It was a proper thing to do. We had no index of the Revised Statutes between the first session and that of 1873. After 1873 the statutes were completely indexed in the revision which bears date of 1878 and in the Supplements to the Revised Statutes. They were completely indexed, and there was no occasion for any additional index to them.

Mr. WARREN. May I ask the Senator whether his contention is that the law which he has read provides for the indexing prior to 1873?

Mr. HEYBURN. Undoubtedly.

Mr. WARREN. But not since?

Mr. HEYBURN. Whether it provided for the indexing since 1873 or not is not material to the point I submit for consideration.

It appears from an investigation of the record affecting this question that those who have been engaged upon this work have done almost everything except the work that Congress appointed them to do. We have appropriated for this work as follows: In 1906, $5,840; in 1907 we appropriated $5,840 for this work; in 1908 we appropriated $5,840; and we are now asked in this bill to appropriate $10,700 for the continuation of this work.

Mr. WARREN. I suppose the Senator has noted the section in the appropriation act of 1907 which provides for indexing the statutes since 1873?

Mr. HEYBURN. Yes; I am now directing my attention to the original enactment and to the manner in which it has been performed.

Mr. SUTHERLAND. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Utah?

Mr. HEYBURN. Certainly.

Mr. SUTHERLAND. There is so much confusion in the Chamber that I am not quite certain I heard the Senator aright. Do I understand the Senator to complain that the work of indexing has been carried on with reference to the laws passed since 1873?

Mr. HEYBURN. Entirely. Not at all as to those prior to that time.

Mr. SUTHERLAND. My recollection is that in one of the appropriations for this purpose it was specifically provided that the work should be first entered upon with reference to the statutes enacted since 1873.

Mr. HEYBURN. My attention is not called to that, but it is called to a communication addressed by the Judiciary Committee of this body to those having in charge the work.

Mr. SUTHERLAND. If the Senator will permit me further——

Mr. HEYBURN. Certainly.

Mr SUTHERLAND. If the Senator will look at 34 Statutes at Large, page 1399, he will find this language:

To expedite the preparation of that part of the new index to the Statutes at Large, which is an index to the statutes enacted since the year 1873.

Mr. WARREN. The Senator from Utah is correct about that. I have it here, and the Senator from Idaho will soon find it.

Mr. HEYBURN. I have it here. It reads:

To expedite the preparation of that part of the new index to the Statutes at Large, which is an index to the statutes enacted since the year 1873, and to provide for the additional service in the law library necessary to the printing of the said index, namely, for typewriting a printer's copy of the card index and for proof reading, $5,000.

I am not referring to that item. I think the Senator from Utah will see in a moment that that is an additional piece of legislation which is not involved in the question I am raising.

Mr. SUTHERLAND. I called the Senator's attention to it for the purpose of asking whether he did not think that by that language Congress was indicating a desire that that work should be first entered upon?

Mr. HEYBURN. I think not. That was in 1907.

I desire, first, to make some remarks in regard to the period between 1906, when this item first appeared in the appropriation bill, and that date, as well as since that date.

Mr. SUTHERLAND. One further inquiry. My understanding is that the index of the statutes since 1873 has already been completed, so that no part of the appropriation now proposed can be used for that purpose. Am I correct about that?

Mr. HEYBURN. To this extent, Mr. President: I have in my hand a volume which states upon the back to be "Scott and Beaman—Index. Analysis of the Federal Statutes. Volume I. General and Permanent Law, 1873–1907."

Mr. SUTHERLAND. Now, if I am correct about that, in suggesting that the work of indexing since 1873 has been completed, then no part of the present appropriation can be used for that purpose. Necessarily it will all be used for the purpose of indexing the statutes prior to 1873.

Mr. HEYBURN. I was under such an impression until I received this communication, under date of January 15, which states as follows:

Relative to the status of the indexing of the laws of the United States, at the present time the laws of a general nature, from 1873 up till last year, have been indexed and printed in one volume. This took one and one-half years.

The men are now working on the local laws passed during that period.

That is, from 1873 up to the present date.

These include the laws relating to the District of Columbia, Alaska, Porto Rico, the Philippines, etc. This will likely be printed in two volumes.

After that has been done it is the intention to index all laws from the beginning of the Government down to 1873.

The best estimate that can be made is that with the present force it will take five years yet to complete the work.

If allowed the two additional assistants included in the bill, it will probably take three years yet in which to complete the work.

There is a very concise statement of the present status of this work. These persons propose not to index the Revised Statutes from the beginning, as was contemplated when this appropriation was first made, but they propose to consume two or three years in the preliminary work of indexing the special laws that have been enacted since 1873.

Now, nothing is more needed or was more needed at the time the first provision was made for this work than an index for the Statutes at Large of the United States in order that they may be readily referred to. There is no index in existence that covers them all, each volume containing its own index; and recognizing the importance of that work, Congress made this appropriation, with the view of having the Statutes at Large indexed, commencing at the beginning. That was the purpose. An examination of the discussion in this Chamber upon that question leaves no doubt as to that conclusion.

But we are met with the proposition that this system has been approved by the Judiciary Committee of both Houses of Congress. That statement is not borne out by the record. A year after this work was commenced the chairman of the Judiciary Committee is shown to have sent the following communication to the persons engaged upon this work:

COMMITTEE OF THE JUDICIARY,
UNITED STATES SENATE,
Washington, D. C., March 1, 1907.

Hon. HERBERT PUTNAM,
Librarian of Congress, Washington, D. C.

DEAR SIR: I have to advise you that at a meeting of the Judiciary Committee of the Senate, held this day, the following resolution was agreed to:

"Whereas the Librarian of Congress has, under the provisions of an act of June 30, 1906, submitted to the Judiciary Committee of the Senate for its approval the plan of an index to the Statutes at Large; and

"Whereas this committee has had such plan examined by some of its members, who find it to be satisfactory and suitable for the objects intended: Therefore be it

"*Ordered*, That the plan be, and the same is hereby, approved, and that a notice of this approval shall be sent this day to the Librarian of Congress by the chairman of this committee."

Yours, truly,

C. D. CLARK, *Chairman.*

Mr. President, I have secured at the room of the Committee on the Judiciary the volume I have before me, which, upon its back says:

Library of Congress, law library. Headings and subheadings for the index of the federal statutes. Prepared by the law library. Draft of a classification prepared for the approval of the Judiciary Committee of Congress, under act of Congress approved June 30, 1906, and submitted for the criticism of all who have occasion to use the indexes to the federal statutes.

That is in blank as to volume, page, or reference to the law. It contains merely a system upon which this work was to be based or that was to be used in doing this work. But it has no reference to the fact that they were proposing to commence in 1873, because this system is applicable to the Statutes at Large of the United States, commencing from the beginning. That volume I obtained at the committee room.

Now, here is an extract from the minutes of the Judiciary Committee of the Senate regarding a proposed index to the statutes, and it is dated March 1, 1907:

Whereas the Librarian of Congress has, under the provisions of an act of June 30, 1906, submitted to the Judiciary Committee of the Senate for its approval the plan of an index to the Statutes at Large; and—

That is, this volume—

Whereas this committee has had such plan examined by some of its members, who find it to be satisfactory and suitable for the objects intended: Therefore be it

Ordered, That the plan be, and the same is hereby, approved and that a notice of this approval shall be sent this day to the Librarian of Congress by the chairman of this committee.

Mr. President, all of that referred to the work provided to be done by the act of 1906—the item in the sundry civil act. When this question was up for consideration, this is what occurred. I read from the CONGRESSIONAL RECORD, volume 40, part 9, page 8846, June 21 of that year. The question being on agreeing to this amendment in the sundry civil bill, Mr. Spooner said:

I hope the Senate will not agree to the amendment of the committee. The preparation of the indexes which are provided for by that clause of the bill involves a very small expenditure of money. I have looked into the matter with a good deal of care, and I think it very important that the work should be done, and done under the auspices under which I am sure it will be done if the provision is left in the bill; that is, under the auspices of men in the Library who are lawyers and well educated. It is a matter which will make it of very great value. It is not a code. As I understand, it is proposed to have it in the Library, so that if a Senator wants to know the statute law upon a particular subject he can obtain the information, and obtain it accurately, in a very few moments. There is nothing of a job in it. The Senator will understand that the well-educated lawyer is a man admirably adapted for that sort of work, and that work ought not to be done by laymen. There are different methods of indexing statutes.

Mr. HALE. If the Senator will allow me, I will say that the committee had very little information in regard to the matter, and struck it out on the sugestion that the House itself had not completed its consideration. I am not sure but what the House has since then, under a suspension of the rules, voted for a proposition that covers the matter. The main object of the Senate amendment was that information might be gotten in conference or by action on the part of the House. That is why the committee struck out the provision.

Mr. SPOONER. The matter was very carefully examined by Mr. Littlefield, who went into it, I am informed, very thoroughly. I myself have felt very greatly, and I suppose other Senators have also, the need of an accurate and thoroughly well-prepared index of the statutes. The amendment involves a small sum. There is no committal by Congress to any publication of it hereafter. It will be made in the Library; it will be kept there; it will cover all phases of every class of subjects dealt with by our statutes, and it will be of very great value to Senators and Members of the other House.

That is the end of that discussion so far as it is pertinent.

Now, those are the circumstances under which this legislation first came before Congress. I think it is stated in one of these reports approximately what the expense would be. The matter came up for consideration again in the sundry civil bill on January 14, 1907, the succeeding session of Congress. Mr. Spooner said on that occasion:

Mr. President, I sincerely hope that the conference committee will not omit an adequate provision, narrowing it so as to eliminate the objection which I myself take to it, for I think they would thereby be doing the public service, and especially the congressional work, an injury. The statutes of the United States have not been well digested. Congress did provide for a digest of existing statutes, I think at the price of $10,000, was it not? The price was not fixed, I am informed, but that was the sum asked. The work was done and submitted to the Judiciary Committee, I believe, and was examined, probably, by one or two members of the committee. It is in four volumes, as I recollect. I have had occasion to examine that index, and it is worth the money, and it ought to be paid.

Upon that basis these men have gone forward and made an index of what was already indexed. The Revised Statutes are thoroughly indexed; the Supplements to the Revised Statutes have been thoroughly indexed; and there was no necessity for the reindexing of the laws after 1873. It was not claimed that there was any necessity for doing such work at the time the appropriation was made. It was claimed, and very properly, that an appropriation should be made for the indexing of the statutes prior to the revision, and it was for that purpose that the money was appropriated. No member of this body then or now supposed for a moment that it was the intention of Congress to make an appropriation that has now involved the Treasury in an expenditure approximating $50,000 for doing that which had already been done. The appropriations for the clerical help alone up to this time amount to $17,520.

There has not been a start made to do the work for which the appropriation was made. But, on the contrary, these folks engaged in this work say it will take five years to complete the work, and if we are to indulge them they will add $50,000 to the cost of this work. For the money expended we have received nothing of value. No part of the intention of Congress has been realized so far. So I have raised objection to the continuance in the appropriation bill of this item, unless it shall require in terms which can not be mistaken or avoided that the original intention of Congress shall be carried into effect; that is, the indexing of the Statutes at Large, commencing at the beginning. They have, according to their theory of the intention of Congress, commenced at the top and have spent four years nearly, over three, in reindexing according to their own plans the Revised Statutes and the Supplements to the Revised Statutes. I know that every member of this body appreciates the necessity of indexing the statutes.

Mr. CARTER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Montana?

Mr. HEYBURN. Certainly.

Mr. CARTER. Does not the index being prepared refer to the pages of the Statutes at Large instead of referring to the Revised Statutes or the Supplements?

Mr. HEYBURN. I will say to the Senator from Montana that this illustrates the entire system. I will take—

Securing of contracts; corporations or firms, persons interested in, not to act for Government; penalty; Revised Statutes, 1873.

That is the index to the Revised Statutes.

There is no attempt here to index anything prior to the Revised Statutes, which while they bear date "1878," of course, as we all know, represent the work of the revision of 1873.

Mr. CARTER. Then I understand the Senator to say that the index being prepared refers to the section in the Revised Statutes or Supplement, and likewise to the page and book of the Statutes at Large?

Mr. HEYBURN. No.

Mr. CARTER. It does not?

Mr. HEYBURN. It refers only to the page and book of the Statutes at Large, when it passes the revision and enters upon the Supplements to the Revised Statutes.

Mr. CARTER. I fully agree with the Senator from Idaho in his conclusions that the preparation of the index, proceeding upon that line, is manifestly not responsive to the purpose of Congress, nor does it possess anything of any value.

Mr. HEYBURN. Not at all. I will cite another instance, if the Senator will permit me to interrupt him, to emphasize that idea. I will read this item:

Necessary to making of contracts; exception; Revised Statutes 3679, 3732, 5503.

There is no other reference. There is no reference that will enable one to turn to the Statutes at Large upon which that statute was based.

Mr. SUTHERLAND. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Utah?

Mr. HEYBURN. Certainly.

Mr. SUTHERLAND. Does not the volume to which the Senator from Idaho is referring purport to be an index of the statutes since 1873?

Mr. HEYBURN. Yes; it purports to be.

Mr. SUTHERLAND. Then, necessarily it must begin with the Revised Statutes. It does not reach back of the Revised Statutes, and therefore there is no necessity of putting into that volume any reference to the Statutes at Large preceding the adoption of the Revised Statutes.

Mr. HEYBURN. I thoroughly realize that.

Mr. SUTHERLAND. I understand that that would be included in a separate volume.

Now, let me ask the Senator from Idaho another question in this connection. I understand him to say that this is an index merely of the Revised Statutes and the Supplements since the Revised Statutes were adopted.

Mr. HEYBURN. That is correct.

Mr. SUTHERLAND. Is not the Senator mistaken about that? Is it not an index of the general law included in the Revised Statutes, in the Supplements to the Revised Statutes, and in the Statutes at Large adopted since 1873?

Mr. HEYBURN. I have so stated; but that was not what the appropriation was made for.

Mr. SUTHERLAND. Doubtless the Senator desires to be fair. I called his attention a moment ago to the provision contained in volume 34, Statutes at Large, page 1399, which reads as follows:

To expedite the preparation of that part of the new index to the Statutes at Large, which is an index to the statutes enacted since the year 1873, and to provide for the additional service in the law library necessary to the printing of the said index, namely, for typewriting a printers' copy of the card index and for proof reading, $5,000, the same to be available until the close of the fiscal year 1908.

I submit to the Senator from Idaho whether that is not a clear indication that Congress desired that first of all in the preparation of this work an index should be prepared of the statutes passed since 1873, regarding that as of paramount importance?

Mr. HEYBURN. That is an entirely different and separate item. Congress may have intended to provide for a great many

things in connection with the indexing of the statutes, but that is not the provision to which I am directing my remarks.

Mr. SUTHERLAND. I understand that, but the language of the statute making the appropriation is—

to expedite the preparation of that part of the index which is an index to the statutes passed since 1873.

Whether it was for another purpose, or for the purpose to which the Senator from Idaho is now addressing himself, I submit to the Senator whether it did not indicate a desire on the part of Congress to regard that work as of paramount importance?

Mr. HEYBURN. Possibly so.

Mr. SUTHERLAND. And would not the officials to whom the work was intrusted be justified in concluding from that that it was the desire of Congress that they should first enter upon that work?

Mr. HEYBURN. I think there is no foundation for such a conclusion. Congress doubtless, when it made the appropriation, which is of an entirely different sum and an entirely different language, may have thought that it would like to have those laws indexed. If it did, I think it gave but very meager consideration to the question. But the item to which I am directing my attention in the bill now under consideration is not that work. This item, on page 38 of the bill, refers to the other work. It refers to the work provided for in 1906. The item that is under consideration does not refer, in my judgment, to the class of work to which the Senator from Utah has called my attention.

Mr. CARTER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Montana?

Mr. HEYBURN. Certainly.

Mr. CARTER. Do I correctly understand the Senator in his conclusion, to wit, that the indexing for the period covered by the Revised Statutes and the Supplements practically constitutes merely a copy of the indexes of those books?

Mr. HEYBURN. Merely a transcript.

Mr. CARTER. Paraphrased somewhat, but essentially copies of the indexes already existing?

Mr. HEYBURN. And paid for at large expense.

Mr. CARTER. Most assuredly. And that that copy has cost $17,000?

Mr. HEYBURN. Seventeen thousand five hundred dollars was carried in the appropriation acts for 1906, 1907, and 1908, and this bill provides for $10,700.

Mr. CARTER. If the Senator is not mistaken, there is surely serious need for the consideration of this kind of an expenditure. I venture to say that the indexes to the Revised Statutes and the Supplements could be copied at a cost not exceeding $1,000.

Mr. HEYBURN. Or the half of it.

Mr. CARTER. Or the half of it, as the Senator states, If, as a matter of fact, the work thus far executed only comprehends really a copy of those indexes, at a cost of $17,000, some very serious mistake must have been made somewhere.

I have not investigated the question, and therefore make my statement upon the view expressed by the Senator from Idaho. I wish to impress the Senate with my understanding, based upon the information he gives, that in three separate items Congress appropriated $17,500 for the performance of a work which merely consists of copying the indexes to the Revised Statutes and the Supplements, with light paraphrasing and change.

Mr. NELSON. The Statutes at Large?

Mr. CARTER. Not the Statutes at Large, but the Revised Statutes of the United States, now possessing good indexes, as a rule. I can scarcely credit the statement that this can be possible.

Mr. WARREN rose.

Mr. CARTER. Does the Senator in charge of the bill have any information on the subject?

Mr. WARREN. With the consent of the Senator from Idaho, I will say that this matter of indexes has been shifted around from one place to another and from one committee to another for several years, and I have wished, during the time, to keep out of it as much as possible and let the lawyers of the Senate settle it among themselves. But I am bound to say that the expense of this work did not originate or commence in the Library. We had various bills and there were various appropriations before that, and the Librarian did not ask for this work. In fact, the Librarian not only did not ask for it, but did not want it. However, it was finally decided by the Committee on Appropriations and by the Senate and House that, in order to get out of the difficulty and to secure perfect and expert work, it should be carried over to the Library. It is over there under a special act and is no part of the Library proper. The volumes are not printed and controlled by the Library. In fact, they have to pay for the copies they wish for their own use. Here is the first volume [exhibiting]. I presume the Senator from Idaho has seen it.

Mr. HEYBURN. Yes; I have it here.

Mr. WARREN. It is the first volume of what was expected to be a full and, you might say, an expert index of all the statutes of the United States.

Mr. CARTER. The Senator from Idaho makes the statement that the work as executed up-to-date commenced with the Revised Statutes and copied the index, only elaborating, of course, as the book indicates.

Mr. WARREN. I hardly think the Senator from Idaho said that, or could mean it. The work already done does not show that.

Mr. CARTER. The book held by the Senator from Wyoming is as large or nearly as large as a volume of the Revised Statutes. The index must be as large as the text.

Mr. WARREN. This is merely the first volume.

Mr. SUTHERLAND. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Utah?

Mr. HEYBURN. Certainly.

Mr. SUTHERLAND. I think the Senator from Idaho surely does not mean to say that the index to which he is referring is a mere copy of the index of the Revised Statutes so far as it refers to the Revised Statutes. I have had occasion to examine it, though not very thoroughly, but I have examined it sufficiently to satisfy me that it is not a copy of the index of the Revised Statutes. I understand from some of the people who are engaged in the work that the index was made by a page-to-page reading of the original laws, and that it is essentially a new index. The volume of it would indicate that.

Mr. HEYBURN. There is nothing upon the face of it to indicate that they investigated the original enactments. Of course many of the items in the Revised Statutes are based upon laws enacted half a century or more ago. No reference to that fact is made in this index. They refer only to the sections of the Revised Statutes.

Mr. SUTHERLAND. Mr. President——

Mr. HEYBURN. Just a moment. I want to be perfectly fair and candid in this matter.

Mr. SUTHERLAND. If the Senator will permit me, in this connection I submit to him that it would not be proper in that index, which is an index of the laws passed since 1873, to refer to the former statutes. That reference would be made in the indexes which were subsequently made.

Mr. HEYBURN. If I may be permitted, that there may be no misapprehension, I will state that the index of the Revised Statutes refers to the page in the Revised Statutes and not to the law that was carried into the Revised Statutes showing its origin. This is the language of the item in the appropriation bill upon which this is based and which shows what they were to do.

To enable the Librarian of Congress to direct the law librarian to prepare a new index of the Statutes at Large.

That is what the index was to be. It was not to be an index of the Revised Statutes or the Supplements, but of the Statutes at Large.

Mr. WARREN. Will the Senator read the few words which follow there?

Mr. HEYBURN. Yes; I have already read it all, but I will read any part of it:

In accordance with the plan previously approved by the Judiciary Committees of both Houses.

I have the plan. Senators can only understand the plan which was submitted by seeing it, and I will ask Senators to notice what the plan consisted of. I see the chairman of the Judiciary Committee present. I think he will bear me out in saying that that is the plan which was approved, and that it consisted merely of the plan as to the form and not the substance.

Mr. WARREN. I have a little brief here of the authority by which the work went to the Library. Would the Senator object to having it read?

Mr. HEYBURN. Not at all.

Mr. WARREN. Then I ask that this brief may be read for information.

The VICE-PRESIDENT. Without objection the Secretary will read as requested.

The Secretary read as follows:

INDEX TO THE STATUTES AT LARGE.

[Bill, p. 38, lines 9–20.]

What volumes were to be indexed?

The original appropriation did not limit to any particular volumes of the Statutes at Large the ground to be covered by the index. It reads as follows:

"To enable the Librarian of Congress to direct the law librarian to prepare a new index to the Statutes at Large, in accordance with a

plan previously approved by the Judiciary Committees of both Houses of Congress." (34 Stat. L., 753.)

Owing to the fact that the approval of the Senate Judiciary Committee was not obtained until March 1, 1907, no indexing was done until that date, but on March 4, 1907, Congress clearly expressed its intention as to which portion of the index should be first prepared by putting in the general deficiency act an appropriation:

"To expedite the preparation of that part of the new index to the Statutes at Large which is an index to the statutes enacted since the year 1873." (34 Stat. L., 1399.)

An examination of the debates in Congress when the index appropriation was under discussion will show that those responsible for the legislation had in mind an index to all the Statutes at Large.

June 15, 1906, Mr. Littlefield, offering the item for the first time as an amendment to the sundry civil bill, said: "This amendment, or this provision, will provide for scientific indexing of legislation up to date. * * * We have to-day 33 volumes of the Statutes at Large. There is no scientific index of them."

On the same day Mr. Littlefield read on the floor of the House what he called the "general scope of the proposition." One item of this "proposition" was as follows: "Index anew the 33 volumes (35,390 pages) of the Statutes at Large."

When the bill came up in the Senate on June 21, 1906, Senator Spooner said: "It [the index] will cover all phases of every class of subjects dealt with by our statutes."

On December 10, 1906, while the legislative, executive, and judicial bill carrying the index appropriation was under discussion in the House, the only objection made was that the item as drafted permitted the law library to prepare indexes and digests for others than Congress.

When the bill reached the Senate, this item was discussed on January 14, 1907. The same objection was made as in the House, and it was further suggested that the necessary approval of the Senate Judiciary Committee had not been obtained. The item was struck out, but was restored by the conference committee, which changed the language of the item so as to require the approval of the Senate Judiciary Committee before any further work could be done. This approval of the Senate Judiciary Committee was obtained on March 1, 1907. (See letter attached.)

In 1908 the legislative bill carrying this item was passed by both Houses without discussion.

NEED OF FIRST INDEXING LAWS SINCE 1873.

The indexes to the Revised Statutes and supplements are contained in three separate volumes. There has been no supplement since 1901. Hence the necessity for preparing Volume I of the index, which has already been published, and which is the result of a careful search of the Statutes at Large since 1873, for all general and permanent legislation. It should be of great assistance to all persons seeking to find the law on any particular subject and especially to the Joint Committee on Revision of the Laws and to individual Members of Congress interested in bills reported from that committee.

There is a large mass of important legislation not contained in the supplements because not general and permanent in character. This is scattered through the separate volumes of the Statutes at Large, and at present is entirely inaccessible. The second part of the index will be a guide to all this legislation. The third part will index all legislation of Congress prior to 1873.

The new revision will not make useless the index to the Statutes at Large.

There will always be need for getting at the material in the Statutes at Large. As pointed out by Judge SMITH of Iowa, in the House on June 15, 1906, and by Attorney-General Moody on June 12, 1906, in a letter to Representative KENNEDY, cases will often arise where it will be necessary to know what was the law before the revision was enacted.

The revision will include only general and permanent legislation. The new index will bring to light all legislation, including such important subjects as the District of Columbia, Indian Territory, Alaska, and other Territories, and the thousands of items of appropriation acts and temporary provisions, useful as precedents.

INDEX NOT A DUPLICATION OF WORK AT STATE DEPARTMENT.

The index will not duplicate the work now done at the State Department, which indexes only the acts of each Congress as they appear.

The new index will make permanently and conveniently accessible all the legislation of all the sessions of Congress from 1789 down to the present date.

Mr. NELSON. Mr. President——

Mr. HEYBURN. That includes the work to be done in the index for five years, and my object in raising this question is to see that the work we directed to be done shall be done now.

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Minnesota?

Mr. HEYBURN. Certainly.

Mr. NELSON. I have looked through the index that has been prepared, and I think the Senator unintentionally fails to state the full effect and purport of the index. In examining it, I find it not only is an index of the Revised Statutes, but of the volumes of the Statutes at Large since that date. You can turn to almost any item there in the book and you will find the Revised Statutes first referred to and then afterwards the Statutes at Large by the number. So I think this may be fairly called an "Index of the Revised Statutes and of the Statutes at Large passed since 1873."

Mr. HEYBURN. I think I so stated.

Mr. NELSON. I will state what is the defect in the revision, to my mind—but whether the revisers are to be blamed for it or not, I am not prepared to say. There are many portions of the Revised Statutes that are based upon older statutes. In the Revised Statutes they are generally referred to in the margin. I think this index ought, in every instance, to refer to the original statute that is found in the Revised Statutes. In that respect it seems incomplete; but whether in omitting that they did violence to their duty, I am not prepared to say.

Mr. CARTER. I call the attention of the Senator from Minnesota, for instance, to page 784 of the book, to which he refers for the purpose of answering a proposition he made. Where the index refers to the Statutes at Large, it does not at the same time make reference to the portion of the Revised Statutes in which the law is found; and where it refers to the section of the Revised Statutes it does not refer to the page in the Statutes at Large where the law can be found.

Mr. HEYBURN. Mr. President, I was proceeding to give one item that would be applicable to all where they have indexed other than the Revised Statutes as to the manner in which they do it. Under the head of "Appropriations," on page 934, for instance, they say:

Contracts in excess of—

That refers to appropriations—

not to be made; penalty—

First, it gives the Revised Statutes, 3679, 3732, and 5503. Then it gives the subsequent legislation since the Revised Statutes, and refers not to the Supplements, but to the Statutes at Large since that time, and in no instance does it carry its reference back to the statutes from which the Revised Statutes were taken. I will give an instance. We will take section 3709 of the Revised Statutes. In the Revised Statutes there is marginal reference made as follows:

ADVERTISEMENTS FOR PROPOSALS.

2 March, 1861, c. 84, s. 10, v. 12, p. 220. 22 June, 1874, c. 389, v. 18, p. 177.

All of that valuable information is omitted from this system of indexing. It is not as complete an index as that contained in the Revised Statutes, for in every case in the Revised Statutes, by marginal reference or index, you may turn to the law in the Statutes at Large upon which the provision in the Revised Statute rests. That should certainly have been carried into this system of indexing, because no lawyer or no legislator will fail to realize the importance often and often again of going back to the statute itself for the purpose of knowing what was in the minds of the revisers. All who refer to laws know the necessity for recurring back to the language of the statute, that you may know the history of a law, the purpose of its enactment, and its application.

I did not intend, when I addressed myself to this subject, to criticise the work of these men as to its accuracy, because it was my intention to take such steps as would lead to the performance of the work that was designated for them.

Mr. SUTHERLAND. Will the Senator yield to me for a moment?

Mr. HEYBURN. Certainly.

Mr. SUTHERLAND. I understood the Senator to criticise this work because in a reference to the Revised Statutes reference is not also made to the Statutes at Large upon which the section of the Revised Statutes is based. The index to the Revised Statutes itself makes no such reference. The index to the Revised Statutes is simply an index of the Revised Statutes, and in order to find out the origin of a law you are obliged to turn to the Revised Statutes themselves and there you will find the marginal notes. This index will not in the future prevent that course from being pursued.

Mr. CARTER. It seems to be the contention of the Senator from Idaho that it is merely a copy of a part, at least, of the index.

Mr. HEYBURN. Well, it is a meager copy. I have just been investigating the corresponding references in the index of the Statutes at Large and this index, and I find that the references in the index of the Revised Statutes are much more comprehensive and, I think, better expressed than the references in this new index.

As I said, I did not rise to criticise the details of this work, but I rise to criticise the doing of this work in preference to that which we delegated to these parties to be done. That was the purpose of my objection to this appropriation. As to this volume, there is nothing upon it to indicate that it is the property of the United States or that it is an official publication. I again call attention to the fact that it is designated as "Scott and Beaman's Index Analysis of the Federal Statutes, Volume 1, General and Permanent Law from 1873 to 1907."

Mr. NELSON. Does the Senator know whether they intend to have it copyrighted in their own name?

Mr. HEYBURN. I do not. There are some things in connection with this work that I would not undertake to prophesy in regard to, but I do know that work that is authorized to be done by Congress and paid for out of the Public Treasury should not bear the names of private individuals and be placed upon the market under their names.

We have provided by appropriate legislation that this book shall be distributed as the Revised Statutes of the United States are distributed.

Mr. NELSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Minnesota?

Mr. HEYBURN. Certainly.

Mr. NELSON. I desire to ask one more question. Does the Senator know whether the gentlemen who have carried on this revision are selling the books of indexes to outside parties?

Mr. HEYBURN. I would not suppose that they were at all. I am not here to attack these men as individuals; I am here to do what I can to rectify the misdirection or mistaken application of the instructions of Congress. I contend that when we instruct any body of men to do one thing, it is not competent for them to do something else in lieu of the thing we instructed them to do; that is all. One of these objects was meritorious and commendable, and the other was useless and a waste of money. But I simply want to call the attention of the Senate to this fact in order that, in passing upon the provision of the appropriation bill on page 38, they may at least know what they are doing and decide whether they want to perpetuate the misdoing of this work.

Mr. BURKETT. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Nebraska.

Mr. HEYBURN. Certainly.

Mr. BURKETT. Let me ask the Senator a question, so that we may know where we are going. I have had occasion, I will say, to use this index somewhat, and it seems to me that the observations the Senator makes as to omissions, perhaps, raise a question as to how large we want this index to be. If we are to undertake all that the Senator has suggested, we would have to call it an encyclopedia instead of an index. It would be an encyclopedia of law. But as the Senator has passed that matter over, is he raising the question of making this appropriation at this time?

Mr. HEYBURN. Yes.

Mr. BURKETT. Then, let me ask the Senator a question. As I understood from the statement made here by the Senator in charge of the bill, this part of the work has been done first, and the other part of it is now in early contemplation. If we really want what the Senate intended to have in the first place, we must make this appropriation, it seems to me.

Mr. HEYBURN. Mr. President, I think the Senator from Nebraska could not have been present during the entire consideration of this question.

Mr. BURKETT. Mr. President, I was.

Mr. HEYBURN. I read a communication which clearly set forth the order in which this committee, if we may call it such, intends to proceed, and I intend, if I can—to use a homely phrase—to head off and turn them in the right direction. They say, in response to an inquiry, that they propose now, instead of proceeding to the indexing of the Statutes at Large, to do something else. What is it? To index private statutes and special laws. Those can wait until we have what Congress wanted when it made the original appropriation. I am in favor of an appropriation to do that work, but I want this bill to be so amended that under this appropriation they can not do something else. I want this amendment so worded that the will of Congress will be carried out, and I want it so plainly expressed that there will be no question as to the will of Congress in this matter. It was for that purpose that I brought it up. I did not bring up the subject for the purpose of attacking the men who are doing the work, for they are, doubtless, men entitled to the respect of their fellow-men; but we must correct these errors when they arise, whether it be from our own inadvertence, our own insufficient expression, or whether it be from the misinterpretation placed upon our direction by some one else than those who are to serve us.

The work they have done in indexing the Revised Statutes and the Supplements up to date is complete. We do not need to make any appropriation for that work, as that work is complete and paid for. I want the amendment to confine the work hereafter to indexing the Revised Statutes, commencing with volume 1 and bringing them up to 1873. For that reason I have called the attention of the Senate to this provision, and I propose to offer an amendment to strike out, on page 38, from line 19 down to and including line 20.

The VICE-PRESIDENT. The Senator from Idaho proposes an amendment, which will be stated by the Secretary.

The SECRETARY. On page 30, after line 8, it is proposed to strike out all down to and including line 20.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Idaho.

Mr. ELKINS. Mr. President, the point which the Senator from Idaho [Mr. HEYBURN] has just raised is a very important one, and if his objection is not explained or answered it seems to me his amendment should prevail, as I now understand it; but I take the floor more particularly to speak on the question of the increased salaries provided in this appropriation bill for the circuit court judges, the district judges, the judges of the supreme court of the District of Columbia, the district court of appeals, and the judges of the Court of Claims, but more particularly as to the discrimination made against the judges of the Court of Claims in favor of other judges. I believe the Court of Claims to be a very important court, by whom very intricate and complicated questions have to be determined, where large sums are involved, as well as the interpretation of the laws, the Constitution, and so forth. I can not see why the compensation of the judges of that court should not be equal to that of the judges of the circuit and district courts.

This question has been before Congress, and before the Senate particularly, at various times. I want to read from some remarks made by Senator Bayard when he offered an amendment to increase the salaries of the judges of the Court of Claims, so as to make them next in amount to the salaries of the judges of the Supreme Court of the United States. Mr. Bayard said in the Senate:

> Mr. President, I can not imagine how it has been that, in providing an advance of the salaries of the judges of the Supreme Court "an equally meritorious class of men," those whose line of duty is upon quite as high a grade, whose responsibilities are just as great, requiring almost, if not quite, as high a degree of professional skill, as much labor, and certainly as high qualifications, the judges of the Court of Claims should have been wholly omitted. They are entitled, in my opinion, to almost, if not quite, as high a salary as the judges of the Supreme Court. As I said before, the grade of the questions with which they are occupied for a large portion of the year is quite as high as that of any of our judges.

That is strong language, coming from a former very distinguished Democratic Senator.

At that time the subject was widely discussed in the public press, and I should like to read from comments made on it by two or three of the leading newspapers of the United States.

I now read from the New York Times:

> This court is only second in importance to the Supreme Court of the United States, with which its jurisdiction is coextensive.

Then the New York Tribune said:

> Nowhere is there greater need of ability and integrity than in this court, which must decide every year between the United States and individuals upon claims involving millions of dollars.

The New York Evening Post said:

> It must be conceded that its importance equals that of any other court under the Government, with the single exception of the Supreme Court; and while, by dignity and power and historic repute, the Supreme Court of course outranks all others, the amounts of money and the legal questions involved in most of the cases coming before it are not greater or more difficult than the amounts and questions in cases before the Court of Claims.

The Judiciary Committee of the Senate, through its then chairman, Senator Hoar, on the 19th of March, 1896, thus characterized the jurisdiction of the Court of Claims:

> To the general jurisdiction of the court Congress has, from time to time, added a great number of subjects of special jurisdiction which, in the magnitude of the amounts involved and the novel and varied character of the cases tried, probably exceeds that of any other court of original jurisdiction in the world.

And after thus setting forth in detail the jurisdiction of the court, the committee thus concluded its report to the Senate:

> It may therefore be reiterated that while the compensation of the judges of the Court of Claims has been singularly overlooked, no judges in the United States have been so weighted with personal responsibility, and no court has had such vast and varied and difficult subjects of jurisdiction committed to it or has received more repeated manifestations of trust and confidence from the legislative power.

At a later date, having reference to the same subject, Attorney-General Griggs thus addressed the Senate committee:

> I also think that the proposed increase of salary is just, and ought to be granted. There are no judges in any of the inferior courts of the United States who perform more responsible or difficult work than the judges of the Court of Claims. The proposed increase puts them on a par with judges of the circuit courts of the United States, with whom they are at least equal in dignity and importance. I have the honor to give my very cordial approval of the proposed amendment.

Mr. President, in the bill reported from the Committee on Appropriations the recommendation of the former Attorney-General and the words that I have quoted from Senator Bayard and Judge Hoar do not seem to have prevailed. The committee has made a distinction and given the judges of the circuit and district courts of the United States more than is received by the judges of the Court of Claims. The importance of the Court of Claims was duly considered at the time of its establishment and the salary of its judges was then fixed at $4,000, while that of the judges of the Supreme Court of the United States was only $6,000 and that of the judges of the supreme court of the District of Columbia only $1,600. The judges of the Court of Claims, when the act was passed creating their offices, were allowed salaries next to those of the judges of the Supreme Court of the United States; but of late there has been a disposition to pay them less than is received by the judges of the circuit courts and the judges of the district courts.

It seems to me that this is a kind of discrimination that tends to lessen the dignity of the Court of Claims. I will not say it degrades it, but certainly it is putting it in a false light.

I think the judges of that court are entitled to just as much compensation as the judges of the circuit courts and district courts and the judges of the supreme court of the District of Columbia and the court of appeals of the District of Columbia.

Now, I should like to read an extract from a letter of the late Senator Allison bearing on this subject. He surely was as careful as any man who has ever led the Appropriations Committee of the Senate when a question of this kind was being considered. He said:

There is pending a bill for the increase of the salaries of the judges of the Supreme Court, circuit courts, and district courts; and should this be done, I will do what I can to place the judges of the Court of Claims upon an equality certainly with the district judges.

I desire also to read an extract from the report of Assistant Attorney-General Thompson for 1908. Mr. Thompson was a judge of the Court of Claims, I think, and was subsequently appointed Assistant Attorney-General. He says in his report:

In the foregoing report I have referred specially to but few of the many very important cases and briefly to the nature of the litigation pending in the Court of Claims. The great responsibility resting upon the court is apparent, and I can not refer thereto in more fitting terms than in the language of my predecessor, Assistant Attorney-General Van Orsdel, now justice of the court of appeals:

"There is probably no trial court in the country upon which there is imposed business of equal magnitude. Its jurisdiction is so comprehensive, the importance of the questions passed upon so great, and the number of cases annually disposed of so numerous that the work of this court becomes one of first importance."

I cite these reports and statements of these distinguished men in support of my contention that whatever else is done in respect to these salaries, the judges of the Court of Claims should have as much as the judges of the circuit courts of the United States, certainly as much as the judges of the districts courts and the judges of the court of appeals and the supreme court of the District of Columbia. I hope that this view will be acquiesced in by the committee and that at the proper time the Senate will agree to it.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Idaho [Mr. HEYBURN].

Mr. WARREN. Mr. President, I merely want to say that the amendment as offered by the Senator from Idaho cuts out the entire paragraph of the text of the bill as it came from the House. The House text was changed by the Senate committee only in two items, one by adding an assistant, and the other in the total appropriation. Of course we shall have to meet the matter in conference, but under this motion it would naturally follow that the work would stop and the men would be discharged after the end of the present fiscal year.

Mr. HEYBURN. Mr. President, at that point, if the Senator will permit an interruption, I will say that I have prepared an amendment which obviates that objection. I have prepared an amendment to be offered if the Senate strikes out the present language. The proposed amendment reads as follows:

To index the Statutes at Large of the United States from volume 1 to and including the current volume of such statutes: For one chief assistant, $3,000—

I will just say that the proposed amendment enumerates the same force and the same salaries, but it confines them to the work——

Mr. CULBERSON. Simply as a matter of convenience, I suggest to the Senator would it not be better for him to move what he has just read as a substitute for the language of the House bill——

Mr. HEYBURN. That would answer the same purpose.

Mr. CULBERSON. Rather than take two motions?

Mr. HEYBURN. Very well. Then, with the permission of the Senate, I will withdraw the amendment I have offered, and in lieu thereof move to strike out the present text and substitute for it the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 38, after line 8, it is proposed to strike out all down to and including line 20, and in lieu thereof to insert:

To index the Statutes at Large of the United States, from volume 1 to and including the current volume of such statutes: For 1 chief assistant, $3,000; 1 assistant, $2,400; 1 assistant, $1,800; 1 assistant, $1,200; 1 assistant, $900; 2 assistants, at $720 each; in all, $10,740, or so much thereof as may be necessary, to complete said work, said work to be submitted to the Judiciary Committees of the two Houses of Congress for inspection and approval.

Mr. HEYBURN. I will say that the amendment provides for the same salaries in the same form as the provision at present in the bill. I have confined it, however, to the work of indexing the Revised Statutes.

Mr. WARREN. Mr. President, continuing what I was about to say, this matter of indexing the laws of the United States has been a wearisome subject for the Committee on Appropriations for many a long year. In fact, I know of no subject that we approach with more dread than we do this, because it appears to the committee that there are constantly changing ideas on the part of those to whom we apply for information regarding it.

This work is being proceeded with under orders that were made complete by the chairmen of the Committees on the Judiciary of the House and the Senate, and by the action of the Senate and House. Under all these circumstances I suppose that the complaint now must be (for it can be no other) not that we started wrong, not that the orders were incorrectly made, or that the work was placed in the wrong hands, but that it is not being done as it was expected to be done by those who submitted it to the Library. Am I correct about that?

Mr. HEYBURN. Or as the Judiciary Committee thought it was to be done and instructed it to be done.

Mr. WARREN. Very well. Mr. President, as I said before, if we strike out the text of this paragraph of the House bill and substitute other language in its place, we must meet this matter in conference, and I want to express a desire if the amendment shall be adopted—and, of course, I hope it may not pass, and I shall vote against it—that we may have full and complete information from the standpoint of those who object to the language as it is in the bill as it came from the House.

Mr. CARTER. Mr. President, the language of the original enactment providing for this index system was clear, specific, and unmistakable. It required that the Statutes at Large of the United States, and not a part or portion of the statutes, should be indexed. Through some means Congress was later persuaded to begin at the last of the work instead of beginning at the first of the task, so that the work, so far as it has progressed, represented in these volumes presents the same identical case that would be presented if we were to undertake to construct a dictionary by going halfway through the letter "a" in one volume, a quarter way through in another volume, and the remainder of the distance until we exhaust the letter "a" in a third volume. The inconvenience of subdividing into separate volumes the letters of the alphabet anyone can perceive. When you take up a dictionary and look for the letter "a," or the definition of a word under that letter, you naturally expect every word in the language beginning with the letter "a" to be found in one place and not scattered through a series of volumes.

This work, so far as it has been completed, is utterly valueless, except in so far as it may be used as copy in the completion of the work which Congress by the original enactment intended to have executed.

I am not quite certain that the amendment of the Senator from Idaho [Mr. HEYBURN] is sufficiently specific or provides proper control. I do not think that the public money should be expended in the preparation of this work, to be submitted later to the Judiciary Committee of each House, for what will approval or disapproval amount to after the work has been completed and paid for?

Mr. HEYBURN. A mere form——

Mr. CARTER. I think the amendment should provide that this work should be executed under the direction and control of the Judiciary Committees of the respective Houses, so that we shall not hereafter be confronted with this shifting and changing which, whatever the motive may have been, will result inevitably in extending this work through a series of years and involving a very large, indeed an abnormally large, appropriation of money for its final completion, and when completed in this line of sections or segments it will be in no sense responsive to the demand of Congress.

It was intended, for instance, whenever the words "War Department" appeared for the first time in a Statute at Large of the United States, they should be indexed and the words "War Department" traced down to the last enactment in the last Statute at Large issued. Such can not be the case beginning at volume 20 of the statutes and indexing thence to the end, then going back to the beginning, or No. 1, and doubling over the ground a second time.

I submit to the Senator from Idaho that, instead of submitting this work for the approval of the committees after its completion, it should be executed under the direction and control of the respective committees.

There is now, Mr. President, an index on the files of the Senate somewhere—copies of that index are in the Judiciary Committee, I am informed—covering this identical ground. That index was prepared many years ago at the suggestion of the lamented Senator Hoar of Massachusetts. It was paid for by Congress, or, at least, a proposition to pay for it was made.

Mr. BACON. I will say to the Senator that he is correct in his statement that the work was done and the volumes actually printed—that is, a certain number of them—and compensation

for it was recommended by the Judiciary Committee of the Senate; but the Senate did not see fit to appropriate the money, and I think the work has never been paid for.

Mr. CLARK of Wyoming. I beg the Senator's pardon. Congress did appropriate a sum; not the sum recommended by the Judiciary Committee, but a sum accepted finally by the party who did the work.

Mr. BACON. That must have been at a subsequent session, then. I know, if I am not mistaken in my recollection, that when the Judiciary Committee first recommended it, it was disapproved of by Congress.

Mr. CLARK of Wyoming. My recollection is that Congress appropriated $5,000 for the work.

Mr. BACON. The Judiciary Committee recommended $10,000, but I was not aware of the fact that a lesser amount was subsequently appropriated. I know that at first it was refused.

Mr. CARTER. My recollection is that $5,000 was appropriated for that work.

Mr. President, the 34 volumes of the Statutes at Large should be indexed in good form and regular order, excluding, of course, the cost of printing, which is not contemplated by this item, for the sum of $10,000.

In view of the fact that a partial preparation of an index from 1873 down to the present date has already absorbed over $17,000, it is manifest, to my mind, that some kind of supervision is necessary in order to secure the execution of this work within a reasonable time and at reasonable cost. Therefore I hope the Senator from Idaho will accept an amendment to his amendment, striking out "subject to the approval of" and inserting "subject to the direction and control of the committees."

Mr. HEYBURN. I cheerfully accept the amendment, and will ask that it be incorporated in the amendment which I have offered.

I neglected to say, as I intended, that a joint committee of the two Houses of Congress is now, and has been for two years or more, engaged in revising the laws of the United States. That work has progressed to the point where this body—the Senate—has passed upon its work on the criminal code, and it is now pending in the other body and nearly completed, so far as its consideration is concerned. More than half the laws of the United States have been prepared by the joint committee, of which I have the honor to be chairman; more than half the work is done and ready for the consideration of Congress whenever Congress is ready to consider it; and the entire work of revising or preparing it for the consideration of Congress has not cost anything like the sum which has been expended for this imperfect indexing.

Mr. SUTHERLAND. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Utah?

Mr. HEYBURN. Certainly.

Mr. SUTHERLAND. Can the Senator from Idaho state to the Senate how much the preliminary work performed by the commission appointed by Congress, preceding the appointment of the committee, cost?

Mr. HEYBURN. It is with a feeling of humiliation that I state approximately the cost of the work of the commission. I have not the exact figures, but I am informed that it is more than $200,000, and I am not proud of it. I will undertake to say that the committee of which the Senator from Utah is a member could have done the work in a quarter of the time for one-tenth of the expense.

Mr. SUTHERLAND. I agree with the Senator.

Mr. HEYBURN. Yes. I do not care to drag into this discussion the cost of that lay commission which undertook to codify and revise the laws of the United States and protracted and prolonged its work until we were compelled to fix a day when it should cease and when its report should be made. I will not enter upon a criticism of that injudicious expenditure, because it is not necessary.

But I say that the work of your joint committee in revising these laws will include, of necessity, a reindexing; will include a repetition of this same work that it may conform to the new print of the Revised Statutes; and whenever the Senate or Congress is ready to receive the work of that committee, it is ready for its consideration, and there will be no delay about it. It has involved a vast amount of work. It has not been a question of copying indexes. It has been a question of tracing every law back to its foundation and comparing it and checking it with every other law, in order that the law as it is to-day may appear in that revision.

Mr. WARREN. Will the Senator from Idaho yield for a question?

Mr. HEYBURN. Certainly.

Mr. WARREN. I desire to ask the Senator at this point whether or not he has made any use of the index, the first volume of which is under his hand, and whether in proceeding with his work it has been of use to him?

Mr. HEYBURN. We have never seen it. I never saw a copy of it until within the last two or three days, and we have never found ourselves in the necessity of inquiring as to its existence, because everything in it is done as well or better in the Revised Statutes and the supplements to them.

Mr. CLARK of Wyoming. Mr. President, I understood the Senator from Idaho to accept the suggestion of the Senator from Montana. A word as to what it is proposed in the amendment the Judiciary Committee shall do. As one member of the committee, I am unwilling to assume the responsibility carried by the amendment. For a committee of this body—the Judiciary Committee or otherwise—to take charge of a division or a bureau that is in constant operation, it seems to me, is asking more than ought to be asked.

I make the suggestion to the Senator from Idaho that in place of the Judiciary Committees of the two bodies he substitute the joint committee of the two Houses that now have the subject of our laws under their consideration and who will not complete their work, as I understand, for some time yet. I frankly say to the Senator and to the Senate that the Judiciary Committee will have absolutely no time to devote to this work, and the Senate could not expect good service in that particular under the conditions and circumstances.

Mr. HEYBURN. The Joint Committee on Revision of the Laws is doing this same work under the direction of Congress, and to give it the responsibility for inspecting the work of this lay committee would be simply requiring it to compare their work with its own. Their work is not even commenced yet. Our work will be finished, I sincerely hope, before they ever report their work.

Mr. BORAH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to his colleague?

Mr. HEYBURN. With pleasure.

Mr. BORAH. I want to ask the Senator from Idaho why, if this work is being performed by the committee of which he is chairman, this item should be left in the pending bill at all.

Mr. HEYBURN. If I were to go back to the original consideration of the wisdom of doing this work I would say it could and should be done best by the committee that is engaged in revising the laws, because all references to pages and titles would have to be changed to conform to the revision upon which we are now engaged. I did not want to go so far as to utterly condemn a piece of work that has been passed upon three times by Congress. I will leave it to some other Senator to do that if he sees fit.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Idaho.

Mr. BORAH. I should like to have the amendment reported. We did not hear it over here.

The VICE-PRESIDENT. The Secretary will again state the amendment, at the request of the Senator from Idaho.

The SECRETARY. On page 38, strike out lines 9, 10, 11, and 12, down to and including line 20, and insert:

To index the Statutes at Large of the United States from volume 1 to and including the current volume of such statutes: For 1 chief assistant, $3,000; 1 assistant, $2,400; 1 assistant, $1,800; 1 assistant, $1,200; 1 assistant, $900; 2 assistants, at $720 each; in all, $10,740, or so much thereof as may be necessary to complete said work, the said work to be executed under the direction and control of the Judiciary Committees of the two Houses of Congress.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Idaho [Mr. HEYBURN].

The amendment was agreed to.

Mr. WARREN. I believe that completes the consideration of the bill, except the salaries of certain judges; and as we are yet awaiting the information called for this morning from the Treasury Department, I will ask that the bill be laid aside now. I give notice that I will ask the Senate to take it up in the morning immediately after the routine morning business.

OMNIBUS CLAIMS BILL.

Mr. FULTON. Mr. President, I had hoped that we would be permitted to proceed a while this evening with the consideration of the omnibus claims bill, but it is so late that it is probably hardly worth while to commence it now, in view of the fact that the Senator from Illinois [Mr. CULLOM] desires an executive session.

But I think I should say that immediately after the consideration of the appropriation bill in the morning shall have been concluded, I will call up this bill and urge its continuous consideration; and if it shall not be disposed of within the next few days, I am going to ask the Senate to hold an evening session, which we may devote entirely to its consideration. If we do not adopt some such plan, the bill will fail, because it

must get to the other House very shortly, or it can not become a law at this session.

EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After twenty minutes spent in executive session the doors were reopened, and (at 4 o'clock and 40 minutes p. m.) the Senate adjourned until to-morrow, Thursday, January 21, 1909, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate January 20, 1909.

SURVEYOR OF CUSTOMS.

Fenton W. Gibson, of Louisiana, to be surveyor of customs for the port of New Orleans, in the State of Louisiana. (Reappointment.)

PROMOTIONS IN THE NAVY.

Commander Charles F. Pond to be a captain in the navy from the 15th day of December, 1908, vice Capt. Arthur P. Nazro, promoted.

Lieut. Commander Edward W. Eberle, to be a commander in the navy from the 15th day of December, 1908, vice Commander Charles F. Pond, promoted.

Lieut. Col. George Richards, assistant paymaster, United States Marine Corps, to be a colonel, paymaster, in the United States Marine Corps from the 31st day of January, 1909, vice Col. Green C. Goodloe, paymaster, United States Marine Corps, who will be retired on that date.

Capt. Harold C. Reisinger, assistant paymaster, United States Marine Corps, to be a major, assistant paymaster, in the United States Marine Corps from the 31st day of January, 1909, vice Maj. William C. Dawson, assistant paymaster, United States Marine Corps, to be promoted.

First Lieut. Russell B. Putnam, U. S. Marine Corps, to be a captain, assistant paymaster, in the United States Marine Corps from the 31st day of January, 1909, vice Captain, Assistant Paymaster Harold C. Reisinger, U. S. Marine Corps, to be promoted.

POSTMASTERS.

CALIFORNIA.

Frank H. Bangham to be postmaster at Susanville, Cal., in place of Frank H. Bangham. Incumbent's commission expires February 27, 1909.

Peter J. McFarlane to be postmaster at Tehachapi, Cal. Office became presidential October 1, 1908.

COLORADO.

Ira L. Herron to be postmaster at Longmont, Colo., in place of Ira L. Herron. Incumbent's commission expires February 27, 1909.

CONNECTICUT.

George I. Allen to be postmaster at Middletown, Conn., in place of George I. Allen. Incumbent's commission expired June 24, 1906.

FLORIDA.

James H. Lundy to be postmaster at Perry, Fla., in place of David P. Morgan, resigned.

GEORGIA.

John W. Saunders to be postmaster at Unadilla, Ga. Office became presidential October 1, 1908.

IDAHO.

F. Beckman to be postmaster at Troy, Idaho, in place of Olof Olson, resigned.

IOWA.

William M. Boylan to be postmaster at Hubbard, Iowa, in place of William W. Boylan, resigned.

John Q. Graham to be postmaster at Emerson, Iowa, in place of John Q. Graham. Incumbent's commission expires January 20, 1909.

Joseph J. Marsh to be postmaster at Decorah, Iowa, in place of Joseph J. Marsh. Incumbent's commission expired November 17, 1907.

KENTUCKY.

Homer B. Bryson to be postmaster at Carlisle, Ky., in place of Homer B. Bryson. Incumbent's commission expired January 9, 1909.

Robert L. Oelz to be postmaster at Cloverport, Ky., in place of John H. Rowland, removed.

MINNESOTA.

Aaron R. Butler to be postmaster at Bagley, Minn., in place of Aaron R. Butler. Incumbent's commission expires January 23, 1909.

Ole C. Requiam to be postmaster at Belgrade, Minn. Office became presidential January 1, 1909.

Fred D. Vibert to be postmaster at Cloquet, Minn., in place of Frank L. Redfield. Incumbent's commission expired December 12, 1908.

NEBRASKA.

Wilfred C. Dorsey to be postmaster at Louisville, Nebr. Office became presidential January 1, 1909.

NEW YORK.

John N. Van Antwerp to be postmaster at Fultonville, N. Y., in place of John N. Van Antwerp. Incumbent's commission expires January 26, 1909.

NORTH CAROLINA.

Charles N. Bodenheimer to be postmaster at Elkin, N. C., in place of Jesse F. Walsh. Incumbent's commission expired January 11, 1909.

Robert T. Joyce to be postmaster at Mount Airy, N. C., in place of Eugene C. Kapp. Incumbent's commission expired January 11, 1909.

NORTH DAKOTA.

Thomas B. Hurly to be postmaster at Bowbells, N. Dak., in place of Thomas B. Hurly. Incumbent's commission expired December 18, 1907.

Albert E. Hurst to be postmaster at Rolette, N. Dak. Office became presidential January 1, 1909.

OKLAHOMA.

J. P. Becker to be postmaster at Medford, Okla., in place of Thomas J. Palmer. Incumbent's commission expired December 17, 1907.

G. L. Hamrick to be postmaster at Tuttle, Okla. Office became presidential January 1, 1909.

Edwin F. Korns to be postmaster at Newkirk, Okla., in place of Edwin F. Korns. Incumbent's commission expired December 12, 1908.

PENNSYLVANIA.

George W. de Coursey to be postmaster at Newtown, Pa., in place of George C. Worstall. Incumbent's commission expires February 3, 1909.

William Murray to be postmaster at Girard, Pa., in place of Harry H. Nichols. Incumbent's commission expires March 1, 1909.

Samuel B. Willard to be postmaster at Yardley, Pa. Office became presidential January 1, 1909.

SOUTH DAKOTA.

Alvah T. Bridgman to be postmaster at Springfield, S. Dak., in place of Alvah T. Bridgman. Incumbent's commission expired December 12, 1908.

TENNESSEE.

William E. Byers to be postmaster at Tracy City, Tenn., in place of William E. Byers. Incumbent's commission expired January 10, 1909.

Joe E. Dodson to be postmaster at Kenton, Tenn., in place of Zada Wade (now Zada Beadles), resigned.

Susanah E. Farley to be postmaster at Whiteville, Tenn. Office became presidential April 1, 1908.

John Redd to be postmaster at Bolivar, Tenn., in place of John Redd. Incumbent's commission expired December 14, 1908.

U. S. Rose to be postmaster at Crossville, Tenn. Office became presidential January 1, 1908.

Joel F. Ruffin to be postmaster at Cedar Hill, Tenn. Office became presidential January 1, 1909.

UTAH.

Charles A. Guiwits to be postmaster at Price, Utah, in place of Charles A. Guiwits. Incumbent's commission expires January 20, 1909.

George H. Richards to be postmaster at Sunnyside, Utah, in place of George H. Richards. Incumbent's commission expired December 14, 1908.

VERMONT.

Emeroy G. Page to be postmaster at Hyde Park, Vt., in place of Emeroy G. Page. Incumbent's commission expired March 2, 1907.

Edward C. Woodworth to be postmaster at Arlington, Vt. Office became presidential October 1, 1908.

WISCONSIN.

Charles S. Button to be postmaster at Milton Junction, Wis., in place of Charles S. Button. Incumbent's commission expires January 23, 1909.

CONFIRMATIONS.

Executive nominations confirmed by the Senate January 20, 1909.

UNITED STATES MARSHAL.

George F. White, of Georgia, to be United States marshal for the southern district of Georgia.

REGISTER OF LAND OFFICE.

Lester Bartlett, of Buffalo, Minn., to be register of the land office at Cass Lake, Minn.

RECEIVER OF PUBLIC MONEYS.

Elisha B. Wood, of Long Prairie, Minn., to be receiver of public moneys at Cass Lake, Minn.

PROMOTIONS IN THE NAVY.

TO BE PAYMASTER, WITH THE RANK OF LIEUTENANT-COMMANDER.

George G. Siebels,
Edmund W. Bonnaffon,
Joseph Fyffe, and
John H. Merriam.

TO BE NAVAL CONSTRUCTORS, WITH THE RANK OF LIEUTENANT-COMMANDER.

Stuart F. Smith and
William G. Groesbeck.

Col. Green C. Goodloe, paymaster, United States Marine Corps, an officer on the active list of the Marine Corps, to be a brigadier-general, paymaster, on the retired list of the Marine Corps.

The following-named midshipmen to be ensigns in the navy:
William O. Wallace,
Frank R. King,
Preston H. McCrary,
David S. H. Howard,
William S. Farber,
Archibald D. Turnbull,
Churchill Humphrey,
Emil A. Lichtenstein,
Albert M. Cohen,
George M. Ravenscroft,
Arie A. Corwin,
Sloan Danenhower,
Harry J. Abbett,
George McC. Courts,
Charles W. Crosse,
Francis D. Pryor,
Roy P. Emrich,
Jacob H. Klein, jr.,
John S. Barleon,
Herbert L. Spencer,
William T. Smith,
Jacob L. Hydrick,
Stephen B. McKinney,
Louis F. Thibault,
Henry R. Keller,
Clarence McC. McGill,
Walter F. Lafrenz,
John B. Earle,
Frederick P. Lilley,
Harold V. McKittrick,
Charles T. Blackburn,
George T. Swasey, jr.,
Ellis Lando,
Ralph B. Horner,
Thomas A. Symington, and
Frank W. Lagerquist.

POSTMASTERS.

CALIFORNIA.

Charles H. Anson to be postmaster at Monrovia, Cal.
S. D. Barkley to be postmaster at Redondo Beach (late Redondo), Cal.
John J. Campbell to be postmaster at Galt, Cal.
James T. Clayton to be postmaster at Elsinore, Cal.
William S. Collins to be postmaster at Loyalton, Cal.
Clyde L. De Armond to be postmaster at Orland, Cal.
George A. Dills to be postmaster at Soldiers Home, Cal.
Albert E. Dixon to be postmaster at Point Loma, Cal.
Joseph J. Gallagher to be postmaster at Davis, Cal.
Lena Gregory to be postmaster at Rocklin, Cal.
George A. Griffin to be postmaster at Tuolumne, Cal.
H. H. Griswold to be postmaster at Calexico, Cal.
James F. Forbes to be postmaster at Orcutt, Cal.
Joseph Smith to be postmaster at Downey, Cal.

COLORADO.

Nimrod S. Walpole to be postmaster at Pueblo, Colo.

CONNECTICUT.

William E. Gates to be postmaster at Glastonbury, Conn.
Tudor Gowdy to be postmaster at Thompsonville, Conn.

LOUISIANA.

Edgar A. Barrios to be postmaster at Lockport, La.
Philip P. Blanchard to be postmaster at White Castle, La.
John Dominique to be postmaster at Bastrop, La.
Joseph J. Lafargue to be postmaster at Donaldsonville, La.
Francis S. Norfleet to be postmaster at Lecompte, La.
Theodore W. Schmidt to be postmaster at Patterson, La.

MAINE.

Jacob F. Hersey to be postmaster at Patten, Me.

OHIO.

Harlow N. Aldrich to be postmaster at Elmore, Ohio.
Samuel F. Rose to be postmaster at Clarington, Ohio.

OREGON.

Merritt A. Baker to be postmaster at Weston, Oreg.
J. E. Beezley to be postmaster at Falls City, Oreg.
William M. Brown to be postmaster at Lebanon, Oreg.
Frank H. Lane to be postmaster at Newport, Oreg.
Wilbur W. McEldowney to be postmaster at Forest Grove, Oreg.
Charles W. Parks to be postmaster at Roseburg, Oreg.
Ella V. Powers to be postmaster at Canyon City, Oreg.

WITHDRAWAL.

Executive nomination withdrawn from the Senate January 20, 1909.

John D. Pringle, of Pennsylvania, to be appraiser of merchandise in the district of Pittsburg, in the State of Pennsylvania, in place of Fred W. Edwards, resigned.

INJUNCTION OF SECRECY REMOVED.

The injunction of secrecy was removed from the following conventions:

An extradition convention between the United States and Honduras, signed at Washington on January 15, 1909. (Ex. S, 60th, 2d.)

An arbitration convention between the United States and Austria-Hungary, signed at Washington on January 15, 1909. (Ex. R, 60th, 2d.)

An arbitration convention between the United States and the Republic of Costa Rica, signed at Washington on January 13, 1909. (Ex. Q, 60th, 2d.)

An arbitration convention between the United States and the Republic of Chile, signed at Washington on January 13, 1909. (Ex. P, 60th, 2d.)

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January 20, 1909.*

The House met at 12 o'clock noon.

Prayer by Rev. David G. Wylie, D. D., pastor of the Scotch Presbyterian Church, New York City.

The Journal of the proceedings of yesterday was read and approved.

GEORGE L. LILLEY.

Mr. JENKINS. Mr. Speaker, by direction of the Committee on the Judiciary, I desire to call up a privileged resolution (H. Res. 500) and to make a report from that committee (Report 1882) on House resolution 488.

The SPEAKER. The gentleman from Wisconsin, by direction of the Committe on the Judiciary, calls up the following privileged resolution.

Mr. JENKINS. I ask that the Clerk read the report.

The SPEAKER. The Clerk will read the resolution and the report.

The Clerk read as follows:

On the 16th day of January the Committee on the Judiciary received from the House of Representatives the following resolution:

"Whereas GEORGE L. LILLEY, a citizen of the State of Connecticut, was duly elected and qualified a Member of the House of Representatives, Sixtieth Congress, from said State; and

"Whereas the said GEORGE L. LILLEY was thereafter, in November,

1908, elected, and on January 6, 1909, duly qualified and entered upon his duties as governor of the said State: Therefore be it

"*Resolved*, That his name be stricken from the roll and his seat in this House be, and is hereby, declared vacant."

By the direction of the House the resolution was referred to the committee for report within ten days.

Immediately upon the adoption of the resolution by the House the committee communicated with GEORGE L. LILLEY, inclosing to him a copy of the resolution and informing him that he might communicate with the committee in writing or appear in person or by attorney.

In reply thereto the following letter from GEORGE L. LILLEY, inclosing a copy of a letter of Governor Woodruff, was received January 19, 1909.

STATE OF CONNECTICUT, EXECUTIVE DEPARTMENT,
Hartford, January 18, 1909.

MY DEAR SIR: I have the honor to acknowledge receipt of your favor of January 15, with inclosed copy of resolution introduced by JOHN W. GAINES.

Replying to your letter, I beg to say that on December 11, 1908, I tendered my resignation as Congressman to Gov. Rollin S. Woodruff. The matter was referred by Governor Woodruff to the attorney-general, whose opinion it was that the statute was mandatory, and that if the resignation was accepted a special election to fill the vacancy must be held. It seemed to the governor and to the attorney-general that the large expense entailed was a conclusive reason why my resignation should not be accepted. The governor, therefore, declined to accept my resignation.

I felt that the precedent laid down by my predecessor was obligatory upon me as governor, particularly in view of the fact that after deducting the time necessary for a special election there would be but about one month for a new Member to serve. I inclose a copy of Governor Woodruff's letter. My belief is that the people of Connecticut uphold Governor Woodruff's decision.

With sincere regards, I am, very truly, yours,

GEO. L. LILLEY.

Hon. JOHN J. JENKINS,
House of Representatives, Washington, D. C.

DECEMBER 21, 1908.

MY DEAR CONGRESSMAN: I am in receipt of your letter of December 11, tendering your resignation as Representative at large from the State of Connecticut in the Sixtieth Congress, to take effect January 5, 1909.

Since receiving your resignation I have given the matter much consideration. The day after I received it I asked Attorney-General Holcomb if there is any precedent in this State for such act as I then believed would be, and still believe is, proper for the governor to take in a situation such as this. My idea was then, and still is, that I ought not, in full justice to the State, to accept your resignation. If I do not accept it, there is no vacancy in the office of Representative at large, and it is not necessary to hold a special election. If I should accept the resignation, it would be necessary under the terms of the act to hold a special election that would require an expenditure of a number of thousands of dollars for a term only sixty days in length, and I do not think that any citizen of the State who has its best interests at heart would consider such an expenditure of money to fill an office for that length of time justifiable.

During the interval between receipt of your letter and this writing I have discussed this matter with several of the State's leading men, and in the main they take the same view that I do, viz, that it is inexpedient to accept the resignation, thereby creating a vacancy and the imperative necessity of holding a special election at large expense to the State and for a very short term of office.

I therefore find it necessary to decline to accept your resignation.

Very truly, yours,

ROLLIN S. WOODRUFF.

Hon. GEORGE L. LILLEY,
Congressman at Large, Hartford, Conn.

The following letters were received from officers of the House in answer to request from the committee for information:

HOUSE OF REPRESENTATIVES,
CLERK'S OFFICE,
Washington, D. C., January 16, 1909.

MY DEAR SIR: In reply to your favor of January 16, inquiring as to when the Hon. GEORGE L. LILLEY, Member of Congress from Connecticut, drew anything from my department, would say that on December 22, 1908, he drew check for his stationery in full; and on the 1st day of January, 1909, he drew his clerk-hire check in full for the month of December.

Very truly, yours,

A. MCDOWELL,
Clerk House of Representatives.

Hon. JOHN J. JENKINS,
Chairman of Committee on Judiciary,
House of Representatives.

HOUSE OF REPRESENTATIVES,
OFFICE SERGEANT-AT-ARMS,
Washington, D. C., January 16, 1909.

MY DEAR SIR: I am in receipt of your communication of January 16, making inquiry as to the payment of salary to Representative GEORGE L. LILLEY, of the State of Connecticut, and also as to whether he has drawn his mileage for the second session of the Sixtieth Congress.

In reply I beg to advise you that Representative LILLEY has drawn his salary as a Member of the House of Representatives up to and including the 4th day of December, 1908, and that on the 4th day of January, 1909, one month's salary was credited up to him, which has not been drawn.

On the 22d day of December, 1908, Mr. LILLEY made application, by letter, for a remittance of the mileage due him for the second session of the Sixtieth Congress. In answer to this communication he was advised by this office that mileage was payable only when the Member had attended a session of the House, conforming to the law which provides that this mileage shall be paid for attendance upon each session of Congress. There is therefore at this time to Mr. LILLEY's credit his mileage and accrued salary from the 4th day of December, 1908.

Very respectfully,

HENRY CASSON,
Sergeant-at-Arms, House of Representatives.

Hon. JOHN J. JENKINS,
Chairman Committee on the Judiciary,
House of Representatives, Washington, D. C.

The committee find as facts that GEORGE L. LILLEY was elected a Member of this House from the State of Connecticut to the Sixtieth Congress.

That the name of GEORGE L. LILLEY was placed on the roll of Members-elect of the Sixtieth Congress.

That GEORGE L. LILLEY performed more or less duties as a Member of this House during the first session of the Sixtieth Congress.

That GEORGE L. LILLEY has not been in attendance at any time during the second session of the Sixtieth Congress.

That on the 11th day of December, 1908, GEORGE L. LILLEY tendered his resignation as Member of this House to Rollin S. Woodruff, governor of the State of Connecticut, to take effect January 5, 1909, and that Governor Woodruff declined to accept the resignation.

That GEORGE L. LILLEY did not withdraw his resignation as a Member of this House.

That GEORGE L. LILLEY was elected governor of the State of Connecticut and took the oath of office as governor of that State on January 6, 1909, and that ever since he took the oath of office he has been performing the duties of the office of governor of the State of Connecticut and has remained at the executive office at Hartford, Conn.

That on December 22, 1908, he drew his check for his stationery in full.

That on the 1st day of January, 1909, he drew his clerk hire in full for the month of December.

That GEORGE L. LILLEY drew his salary as a Member of the House of Representatives up to and including the 4th day of December, 1908.

That on the 22d day of December, 1908, GEORGE L. LILLEY made application by letter for a remittance of the mileage for the second session of the Sixtieth Congress.

What effect did the tendering by GEORGE L. LILLEY of his resignation as Member of this House to the governor of the State of Connecticut have upon the membership of GEORGE L. LILLEY in the Sixtieth Congress; and if his membership did not cease on the 5th day of January, 1909, what effect did the qualification of GEORGE L. LILLEY as governor of the State of Connecticut have upon the membership of GEORGE L. LILLEY in the Sixtieth Congress?

The Constitution is silent as to how a Member can dissever his membership. The Constitution anticipates that a vacancy may occur:

"When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies. (Clause 4, sec. 2, art. 1.)"

The Constitution does not prohibit a Member from holding any state office.

The Constitution does provide—

"That no person holding any office under the United States shall be a Member of either House during his continuance in office. (Part of clause 2, sec. 6, art. 1.)

"Each House shall be the judge of the elections, returns, and qualifications of its own Members. (Part of sec. 5, art. 1.)

"Each House may * * * punish its Members for disorderly behavior, and with the concurrence of two-thirds expel a Member. (Subdivision 2, sec. 5, art. 1.)"

In voluntary withdrawals from membership in the House of Representatives, the practice has not been uniform. The retiring Member has resigned on the floor of the House. The retiring Member has notified the Speaker in writing and in turn the Speaker of the House has notified the governor of the State. Then again the retiring Member has resigned to his governor and the governor in turn has notified the Speaker, and then again the House was not informed of the vacancy until the new Member appeared with his credentials, but in all cases the act of the retiring Member has been positive to the extent of showing that he had ceased to be a Member of the House of Representatives as far as he was concerned.

By the statute of the State of Connecticut the governor may accept the resignation of any officer whose successor, in case of a vacancy in office, he has power to nominate or appoint; but there is no statute in the State of Connecticut authorizing the governor of that State to accept the resignation of a Member of Congress.

There is no question but what if a Member of the House of Representatives tenders his resignation, no matter whether it be to the governor of the State or to the Speaker of the House, he becomes ipso facto no longer a Member, and therefore it is impossible for a Member having tendered his resignation to withdraw same.

Unless the House of Representatives exercises its power and expels a Member, it rests entirely with the Member as to whether or not he continues his membership. After he has declared in no uncertain terms to the governor of his State or to the Speaker of the House that he has resigned, there is nothing that can be done by the Member or by the officer to whom the resignation was tendered that will tend to continue the membership. The presentation of the resignation is all sufficient. It is self-acting. No formal acceptance is necessary to make it effective. The refusal of a governor to accept a resignation of a Member of Congress can not possibly continue the membership, and certainly it is within the power of the House to declare what effect the presentation of the resignation had upon the membership.

It is extremely important in a case like this for the House of Representatives to know the status of its Members, the duties and power of the House. The person elected owes it to the people in general, and his constituents in particular, to be in his seat discharging his public duties.

The House has a right to know whether the name on the roll is that of a Member, as bearing upon the question of a quorum. The State has a right of representation, denied by nonaction of the House. It is the highest duty of the House to settle the status in a case of this kind.

What question of law does the conceded facts present? It is a universally recognized principle of the common law that the same person should not undertake to perform inconsistent and incompatible duties, and that when a person while occupying one position accepts another incompatible with the first, ipso facto, absolutely vacates the first office and his title thereto is terminated without any further act or proceeding. This incompatibility operating to vacate the first office exists where the nature and duties of the second office are such as to render it improper, from considerations of public policy, for one person to retain both. There is an absolute inconsistency in the functions of the two offices, Member of Congress and governor of the State of Connecticut.

While what is here stated is a common-law doctrine, and it is also recognized that there can be no common law except by legislative adoption, yet it is a principle of law, and the House of Representatives can not well refuse to recognize and adopt it.

As said by the Supreme Court of the United States in Bucher *v.* Cheshire Railroad Company (125 U. S., 555, p. 583):

"There is no common law of the United States, and yet the main body of the rights of the people of this country rest upon and are governed by principles derived from the common law of England and established as the laws of the different States."

Assuming that the courts of the United States can not punish for a common-law crime or enforce a common-law right, yet there is nothing to prevent this House from being governed by a common-law doctrine. This feature of the case is very important, because it presents this important question:

Is GEORGE L. LILLEY a Member of this House? If he is a Member of this House, the power of the House to deal with him is absolutely unlimited; if he is not a Member of this House, then the House has nothing whatever to do with him.

If GEORGE L. LILLEY is a Member of the House, the House has the constitutional right to compel his attendance in such manner and under such penalties as the House may provide. (Sec. 5, art. 1.)

The House ought not to be placed in an uncertain condition, leaving it to the person to say whether or not, according to his interests, he shall play fast or loose. If the House needs his presence to help make a quorum and he does not want to attend, he can plead that he is not a Member. If he wants anything as a Member, he can insist that he is not out of Congress, but that he is a Member.

If he is not a Member by reason of resignation or accepting an office that is incompatible, it is not within the power of the Chair to recognize him.

There can be but little question but what GEORGE L. LILLEY resigned his membership in this House and that it became effective on the 5th day of January, 1909, and that being true, it logically follows that he ceased to be a Member at that time; but inasmuch as it seems so clear that GEORGE L. LILLEY ceased to be a Member of the House of Representatives upon his acceptance of the office of governor of the State of Connecticut, and the question of time is so very brief, that it may be well to hold that his seat was vacant January 6, 1909.

As there is an entire absence of constitutional authority, there is almost an entire absence of precedents.

The committee finds that James S. Robinson, a Representative in the Forty-eighth Congress from the State of Ohio, was elected to the office of secretary of state of the State of Ohio; that Mr. Robinson did tender his resignation as a Member of Congress to the governor of Ohio, and his resignation was placed on file, and thereafter on the same day he was sworn in and duly qualified as secretary of state, and from that time on he did not assume to be a Member of Congress nor attempt to exercise any of the rights or privileges belonging to a Member of this body, but on the contrary resided at the seat of government in the State of Ohio, in the performance of his duties as secretary of state.

The committee simply recommended that the Clerk of the House be instructed to omit his name from the roll of Members, because they found that he did not claim to be a Member of Congress. (House of Representatives, 48th Cong., 2d sess., Rept. No. 2679.)

In 9 South Carolina Reports, 156, appears the case of the State of South Carolina *v.* Buttz. Buttz was solicitor of the first judicial circuit of the State of South Carolina, and after being commissioned as solicitor he qualified on the 23d of January, 1877, as Representative in Congress from the State of South Carolina.

The Supreme Court *held* that the offices of state solicitor and Member of Congress are incompatible with each other, and that a solicitor who accepts the office of Representative in Congress thereby vacates his office of solicitor; that where one holding office accepts another which is incompatible therewith, he therefore vacates the first.

The committee is of the opinion that if said GEORGE L. LILLEY had not resigned on the 5th day of January, 1909, by entering upon the duties of the office of governor of the State of Connecticut, he ceased to be a Member of the House of Representatives of the United States on the 6th day of January, 1909.

The committee therefore recommended as a substitute for the House resolution the following resolution:

"*Resolved*, That the seat in this House of GEORGE L. LILLEY as a Representative from the State of Connecticut was vacated on the 6th day of January, 1909.

"That the Clerk of this House be, and he is hereby, directed to remove the name of GEORGE L. LILLEY from the roll of Members of this House."

SEPARATE VIEWS OF RICHARD WAYNE PARKER.

I agree to the resolution. I think the House has the right to determine whether the resignation should take effect, and that the House should determine that it did take effect. It is unnecessary, therefore, to determine whether the office of governor is incompatible with that of Representative, and I reserve any conclusion on that suggestion.

RICHARD WAYNE PARKER.
JOHN A. STERLING.

Mr. JENKINS. Mr. Speaker, as every gentleman on the floor has a copy of this report, and I trust has carefully considered it, if there is no one who desires to ask any question, I will ask for a vote on the substitute.

Mr. GAINES of Tennessee. Mr. Speaker, I have had no time to read the report, and want to ask, Is the effect of this resolution to declare the seat vacant?

Mr. JENKINS. Yes.

Mr. GAINES of Tennessee. Well, that is all right.

The resolution was agreed to.

Mr. HIGGINS. May I submit a request for unanimous consent that I may insert in the RECORD the letter which I hold in my hand relative to this matter?

Mr. HENRY of Texas. We should like to hear the letter read.

Mr. WILLIAMS. Let us know what it is.

The SPEAKER. The gentleman from Connecticut [Mr. HIGGINS] asks unanimous consent to insert in the RECORD the letter which he holds in his hand.

Mr. WILLIAMS. I object, in the absence of further information.

The SPEAKER. Does the gentleman desire the letter read?

Mr. HIGGINS. I ask unanimous consent to be allowed to have this letter read from the Clerk's desk.

Mr. WILLIAMS. Mr. Speaker, I shall object.

Mr. LIVINGSTON. After it is read we can not object to it, can we?

Mr. WILLIAMS. Mr. Speaker, I understand that the gentleman from Connecticut asks unanimous consent to have it read. If it requires unanimous consent, I object.

The SPEAKER. In reply to the question of the gentleman from Georgia [Mr. LIVINGSTON], it is for the House to say whether it shall be printed in the RECORD or not. But objection is made by the gentleman from Mississippi to the reading of the letter.

Mr. WILLIAMS. If the gentleman will indicate the character of the communication, I may not object. What is it about?

Mr. BARTLETT of Georgia. Mr. Speaker, a parliamentary inquiry.

Mr. HIGGINS. I will say, Mr. Speaker, that this is a letter in response to a telegram which I sent to Mr. LILLEY. The gentleman will remember that I made some statements concerning whether or not Mr. LILLEY had resigned. I gave my own personal opinion about it from having read certain newspaper items. This letter does not differ materially from the letter which Mr. LILLEY wrote to the gentleman from Wisconsin [Mr. JENKINS] in response to a copy of the resolution which was sent him, and simply bears out as a fact, it seems to me, what I stated to the House as my opinion.

Mr. WILLIAMS. Mr. Speaker, understanding that the letter merely explains the position that was taken by the gentleman from Connecticut the other day, I shall withdraw the objection.

Mr. MACON. I renew the objection.

Mr. CLAYTON. With the permission of the House, I would like to ask the gentleman from Connecticut a question. The gentleman is a member of the Committee on the Judiciary, having charge of this resolution. That is the fact, is it not?

Mr. HIGGINS. Oh, yes.

Mr. CLAYTON. And the gentleman was at the session of that committee this morning, was he not?

Mr. HIGGINS. Yes.

Mr. CLAYTON. Did the gentleman inform any member of the committee of this letter; did he disclose it?

Mr. HIGGINS. No; and I will tell you why, if you will give me an opportunity.

Mr. CLAYTON. Does the gentleman think that is a fair way to treat the committee?

Mr. BENNET of New York. Mr. Speaker, I ask unanimous consent that the gentleman from Connecticut may proceed for five minutes.

Mr. MACON. I object.

ASSISTANT CLERK TO COMMITTEE ON ENROLLED BILLS.

Mr. HUGHES of West Virginia. Mr. Speaker, I offer the following report from the Committee on Accounts.

The Clerk read as follows:

House resolution 448.

Resolved, That the chairman of the Committee on Enrolled Bills be, and he is hereby, authorized to appoint an assistant clerk to said committee, who shall be paid out of the contingent fund of the House at the rate of $6 per day during the present Congress.

The following amendment, recommended by the committee, was read:

In line 5, strike out the words "during the present Congress" and insert "from and including January 4, 1909, and during the remainder of the present session."

The amendment was agreed to.

The resolution as amended was agreed to.

RICHARD H. MESHAW AND OTHERS.

Mr. HUGHES of West Virginia. Mr. Speaker, I also present the following report from the Committee on Accounts.

The Clerk read as follows:

House resolution 501.

Resolved, That there shall be paid out of the contingent fund of the House to Richard H. Meshaw and John W. Meshaw, heirs of John Meshaw, deceased, late janitor of the Committee on Pensions, a sum equal to six months of his salary as such employee, and an additional amount not exceeding $250 for payment of the funeral expenses of the said John Meshaw; to Clarence M. Hooker, Lena Hooker Daily, Della Hooker Johnson, Albert G. Hooker, and Hull M. Hooker, heirs of Leroy J. Hooker, deceased, late a messenger on the soldiers' roll of the House of Representatives, an amount equal to six months of his salary as such employee, to be divided equally among said heirs, and an additional amount not exceeding $250 for the payment of the funeral expenses of said Leroy J. Hooker; and to Selina Field, widow of Norton J. Field, the sum of $75.83, being the amount of salary due said Field as a private on the Capitol police force from September 1 to September 26, 1908, inclusive, the same to be in full payment of all claims of the estate of said Norton J. Field, and to be receipted for as such.

Mr. GARRETT. Mr. Speaker, I would like to ask the gentleman from West Virginia what this resolution is.

Mr. HUGHES of West Virginia. This is simply a resolution in the case of the death of an employee of the House of Representatives. In this case it was the janitor of the Committee on Pensions, and also a resolution for a deceased messenger on the old soldiers' roll. This is to pay the widow, and the last resolution is to pay Norton J. Field's widow the balance of the salary due him for services rendered up to the time of his death. He was on the Capitol police force.

Mr. GARRETT. Is there anything new in this resolution?

Mr. HUGHES of West Virginia. Nothing whatever.

Mr. GARRETT. It is following the usual custom, is it?

Mr. HUGHES of West Virginia. Yes.

Mr. BARTLETT of Georgia. Mr. Speaker, I want to say to the gentleman from Tennessee and to the Members on this side of the House that these resolutions came from the Committee on Accounts and have been very carefully scanned by the minority Members, and that whatever may be said about the propriety of these resolutions, it has been for years and years the custom of the House to pay this money when an employee dies. The other resolution has reference to the payment of salary to a member of the Capitol police force due him at the time of his death which had not been paid. There is nothing new in it. The last resolution is eminently just and proper.

Mr. GARRETT. Does the gentleman think the first ones eminently just and proper?

Mr. BARTLETT of Georgia. It has been the uniform rule and custom of the House for many years past. Whether as an original proposition I would vote for such resolutions is not now to be decided. Ever since I have been a Member of the House, and long before I came to my legal majority, it was the custom of the House of Representatives.

Mr. GARRETT. The word of the gentleman from Georgia, particularly when reinforced by the word of the gentleman from West Virginia, is entirely satisfactory to me.

The resolution was agreed to.

NAVAL APPROPRIATION BILL.

Mr. FOSS. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the naval appropriation bill.

SPECIAL AGENTS, ETC., DEPARTMENT OF JUSTICE.

The SPEAKER. Pending that motion, the Chair will recognize temporarily the gentleman from Wisconsin.

Mr. JENKINS. Mr. Speaker, I desire to call up a privileged report from the Committee on the Judiciary, House resolution 476, and make a brief statement. A resolution was adopted calling upon the Attorney-General for certain information, and after it was reported by the committee the Attorney-General sent up a full statement, which has been submitted to Mr. CLARK of Florida, who introduced it. He says that it is perfectly satisfactory to him, and I ask unanimous consent to print the communication of the Attorney-General in the RECORD and that House resolution 476 do lie on the table.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 476.

Resolved, That the Attorney-General of the United States be, and he is hereby, requested to furnish the House of Representatives, at as early a day as may be convenient, with the following information, namely:

First. The number of "special agents" in the employ of the Department of Justice.

Second. The duties of such "special agents."

Third. The salaries paid such "special agents," and from what fund such salaries are paid.

Fourth. The law under and by virtue of which the Department of Justice has organized a "force of special agents."

Mr. JENKINS. Mr. Speaker, repeating what I said a moment ago, the Committee on the Judiciary reported this resolution to the House, and the Attorney-General, anticipating the matter, sent up a very full and complete report, which has been submitted to the gentleman from Florida [Mr. CLARK], who introduced the resolution. He says the answer of the Attorney-General is satisfactory, and I ask unanimous consent that the communication of the Attorney-General be printed in the RECORD and the resolution do lie on the table.

The SPEAKER. The gentleman from Wisconsin asks that the communication of the Attorney-General be printed in the RECORD and the resolution lie on the table. Is there objection?

Mr. CLARK of Florida. Mr. Speaker——

Mr. JENKINS. I will yield to the gentleman from Florida.

Mr. CLARK of Florida. I simply want to say that the gentleman from Wisconsin has stated all the facts, as I understand them fully, and that the procedure is entirely agreeable to me.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

The matter referred to is as follows:

OFFICE OF THE ATTORNEY-GENERAL,
Washington, D. C., January 8, 1909.

Hon. JOHN J. JENKINS, M. C.,
Chairman Committee on the Judiciary,
House of Representatives.

MY DEAR SIR: I am duly in receipt of your letter of this date, inclosing a copy of resolution No. 476 of the House of Representatives, referred to your committee. I have the honor to inclose you herewith a memorandum prepared by the chief examiner of this department, to accompany my letter to the President of December 31, 1908, transmitting certain data mentioned in Senate resolution No. 233 of the present session. An examination of this memorandum will show that it contains all the information requested in resolution No. 476 of the House of Representatives first above mentioned. In view of the statement contained therein as to the comparative cost of the special-agent service of this department in 1907 and 1908, and to avoid any misleading inference which might be drawn from the facts therein stated, I call your attention to the following extract from my letter to the President of December 31, 1908, above mentioned:

"In connection with the question of cost, I call your attention to the fact that, according to the estimates of the chief examiner, the cost of our newly organized force of special agents under his charge has been appreciably less during the last six months of the calendar year 1908 than the amount paid out for similar services during the corresponding period of the calendar year 1907. It is, however, proper to note in this connection that in 1907 a considerable number of secret-service officers and other special employees were engaged in the investigation and prosecution of certain classes of land-fraud cases, with whose services it was found practicable to dispense early in the year 1908, so that the comparison may not be a strictly fair one with regard to normal periods."

Inasmuch as the memorandum inclosed, supplemented by the last-mentioned extract, gives all the information requested by the first-mentioned resolution, or possessed by this department with respect to its subject-matter, I trust it will serve all the purposes of your committee in the premises.

I remain, my dear sir,

Yours, very respectfully and truly,

CHARLES J. BONAPARTE,
Attorney-General.

MEMORANDUM REGARDING THE SPECIAL AGENTS OF THE DEPARTMENT OF JUSTICE EMPLOYED IN COLLECTING EVIDENCE IN UNITED STATES CASES IN FEDERAL COURTS DURING THE PERIOD SINCE JULY 1, 1908.

DEPARTMENT OF JUSTICE,
December 31, 1908.

In connection with the attached tabulated list of special attorneys, special agents, etc., who were employed by this department during the fiscal year 1908, the following statements are respectively submitted:

From the above-mentioned lists it will be seen that during the last fiscal year a number of special agents and other persons acting in similar capacities were employed by this department for the purpose of collecting evidence and making investigations and examinations necessarily incident to the business of the federal courts. There were also employed from time to time during the said period and for similar purposes a considerable number of persons whose names were submitted by request to this department by the Chief of the Secret Service Division of the Treasury Department. The employment during the fiscal year 1909 by this department of persons so designated was prohibited by the following clause of the sundry civil appropriation act of May 27, 1908:

"No part of any money appropriated by this act shall be used in payment of compensation or expenses of any person detailed or transferred from the Secret Service Division of the Treasury Department or who may at any time during the fiscal year 1909 have been employed by or under said Secret Service Division."

At the close of business on June 30, 1908, there were in the employ of this department seven special agents engaged in collecting evidence regarding violations of peonage laws and six special agents engaged in collecting evidence regarding violations of the timber laws, the compensations allowed the said agents being from $3 to $5 per day and actual traveling expenses, together from $1 to $3 per day allowance in lieu of subsistence, the said compensations being paid from the appropriation "Miscellaneous expenses, United States courts," which reads as follows:

"For payment of such miscellaneous expenses as may be authorized by the Attorney-General, for the United States courts and their officers, including the furnishing and collecting of evidence where the United States is or may be a party in interest, and moving of records."

It being apparent, at the close of the fiscal year 1908, that additional special agents would be needed for the purpose of collecting evidence for use in United States cases pending and about to be instituted in the federal courts, 10 additional agents were appointed under the provisions of the appropriation mentioned, with compensation as follows:

"One at $2,000 per annum and actual expenses.

"One at $5 per day, actual traveling expenses, and $4 per day in lieu of subsistence.

"Eight at $4 per day, actual traveling expenses, and $4 per day in lieu of subsistence."

Subsequently there was added to this force an additional special agent at $5 per day, actual traveling expenses, and $4 per day in lieu of subsistence.

On October 1, 1908, it being considered advisable that the allowance in lieu of subsistence be made uniform throughout the special agents force, the amount of such compensation was reduced to $3 per day, and since that date none of the special agents employed under the appropriation "Miscellaneous expenses, United States courts," has been allowed more than that amount.

On December 14, 1908, one additional special agent was employed under this appropriation at $5 per day, actual traveling expenses, and an allowance of $3 per day in lieu of subsistence.

There have also been employed since July 1, 1908, as necessity required, in addition to the agents above mentioned, a number of temporary special agents, the period of employment in each of said cases being limited to thirty days, and the compensation in such cases being at the rate of $3 per day, actual traveling expenses, and an allowance of $3 per day in lieu of subsistence, there being 9 temporary special agents so employed at the present time, making the total number of special agents now employed under the appropriation men-

tioned, including those in the employ of the department at the beginning of the present fiscal year, 34, as follows:

"One at $2,000 per annum and actual expenses.

"Six at $5 per day, actual traveling expenses, and an allowance of $3 per day in lieu of subsistence.

"Fourteen at $4 per day, actual traveling expenses, and $3 per day in lieu of subsistence.

"Ten at $3 per day, actual traveling expenses, and $3 per day in lieu of subsistence.

"Two at $3 per day, actual traveling expenses, and $1 per day in lieu of subsistence.

"One at $3 per day."

The new force of special agents was placed in charge of the chief examiner, who has general supervision of their work, and receives from them daily reports setting forth the nature and extent of the duties performed by them, the expenses incurred by them, etc. The reports received at the Department each day are summarized by the chief examiner and submitted to the Attorney-General, who, by this means, is kept fully informed, at all times, both as to the operations of the special agents, and also as to the daily cost of the service, the aggregate cost since the beginning of the fiscal year, and the aggregate cost of similar investigations during the same period of the fiscal year 1907.

From a recent report of the chief examiner it appears that the amount paid to special agents and other similar employees (including those employed under designation from the Chief of the Secret Service Division of the Treasury Department) from the appropriation "Miscellaneous expenses, United States courts, 1908," during the period from July 1 to December 26, 1907, was approximately $53,743.25; whereas the total compensation and expenses of the special agents performing similar services during the period from July 1 to December 26, 1908, was $40,149.98; a difference of $13,593.27.

Respectfully submitted.

S. W. FINCH, *Chief Examiner.*

Mr. HENRY of Texas. Mr. Speaker, I wish to make a request for unanimous consent. Pending the motion of the gentleman from Illinois, I ask uannimous consent that the gentleman from Connecticut [Mr. HIGGINS] may be given five minutes to make a statement.

The SPEAKER. The gentleman from Texas asks unanimous consent that the gentleman from Connecticut may be given five minutes to make a statement.

Mr. MACON. I do not know, Mr. Speaker, that there is any reason why the gentleman from Connecticut should make a statement at this time. He is not charged with anything; his skirts do not need to be cleared, and I object.

Mr. GAINES of Tennessee. Mr. Speaker, pending the motion of the gentleman from Illinois, I ask unanimous consent to make a statement on the Lilley matter.

The SPEAKER. Does the gentleman from Illinois withhold his motion?

Mr. FOSS. Mr. Speaker, I demanded the regular order.

Mr. GAINES of Tennessee. Well, the gentleman is doing an injustice to a Member of this House.

The SPEAKER. The gentleman demands the regular order. The question is on the motion of the gentleman from Illinois, that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the naval appropriation bill.

The question was taken, and the motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26394, the naval appropriation bill, with Mr. MANN in the chair.

The CHAIRMAN. The Clerk will read.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. STERLING having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, its reading clerk, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 16954) to provide for Thirteenth and subsequent decennial censuses.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 653) to authorize commissions to issue in the case of officers of the army retired with increased rank.

NAVAL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

PAY OF THE NAVY.

Pay and allowances prescribed by law of officers on sea duty and other duty; officers on waiting orders; officers on the retired list; clerks to paymasters at yards and stations, general storekeepers and receiving ships, and other vessels; 2 clerks to general inspectors of Pay Corps; 1 clerk to pay officer in charge of deserters' rolls; commutation of quarters for officers on shore not occupying public quarters, including boatswains, gunners, carpenters, sailmakers, warrant machinists, pharmacists, and mates, and also naval constructors and assistant naval constructors; for hire of quarters for officers serving with troops where there are no public quarters belonging to the Government, and where there are not sufficient quarters possessed by the United States to accommodate them, or commutation of quarters not to exceed the amount which an officer would receive were he not serving with troops; pay of enlisted men on the retired list; extra pay to men reenlisting under honorable discharge; interest on deposits by men; pay of petty officers, seamen, landsmen, and apprentice seamen, including men in the engineers' force, and men detailed for duty with Naval Militia, and for the Fish Commission, 42,000 men; and the number of enlisted men shall be exclusive of those undergoing imprisonment with sentence of dishonorable discharge from the service at expiration of such confinement; and as many warrant machinists as the President may from time to time deem necessary to appoint, not to exceed 20 in any one year; and 2,500 apprentice seamen under training at training stations and on board training ships, at the pay prescribed by law; pay of the Nurse Corps; rent of quarters for members of the Nurse Corps; prizes to be awarded to the engineer divisions of the ships in commission for general efficiency and for economy in coal consumption under such rules as the Secretary of the Navy may formulate, $32,803,486.72.

Mr. STAFFORD. Mr. Chairman, I wish to reserve a point of order on that part of the paragraph beginning with the word "prizes," in line 25, on page 2, and ending with the word "formulate," on page 3. It provides for prizes to be awarded to the engineer divisions of the ships in commission. I reserve the point of order to ascertain whether this is a new project that is about to be launched in this branch of the naval service, by awarding prizes for efficiency and economy in case of coal consumption, and what was the justification for the committee inserting it in the bill?

Mr. FOSS. It is not a new project, Mr. Chairman. It was done last year, and authorization was given by the law of last year.

Mr. STAFFORD. The gentleman does not mean to say that this special language was carried in last year's appropriation bill?

Mr. FOSS. No; I am mistaken; it was not carried in last year's appropriation bill. In any event, I will say that Admiral Evans, who was in command of the Atlantic Fleet, established a system of competition on the part of the coal passers, and the result of it was that he saved 1,500 tons of coal in the cruise of the fleet from Hampton Roads to Magdalena Bay, and this competition is now already in operation in the navy. Admiral Sperry, who is in command of the Atlantic Fleet, cabled from Australia the other day that it had been so successful that he would need 8,000 tons of coal less delivered at Manila Bay in order to complete his cruise around the world.

Mr. STAFFORD. What is the character of the prizes awarded to the firemen?

Mr. FOSS. They are small money prizes. It will be a great saving to the navy.

Mr. STAFFORD. Mr. Chairman, the explanation of the gentleman from Illinois is satisfactory, and I withdraw the point of order. I move now to strike out the last word for the purpose of making further inquiry as to the reasons for the increase of $2,000,000 in the appropriation in this item over that of last year. That seems to be an inordinate increase, and in view of the fact that the chairman of the committee or no member of the committee explained these items yesterday, but decided to have them explained as they were reached in the bill, I wish the gentleman would accommodate the committee with an explanation.

Mr. FOSS. Mr. Chairman I would state that this has been carefully figured out, and I will place in my statement here the estimates showing just how it is figured out by the Navy Department. The pay of 3,250 officers on the active list now allowed by law amounts to $9,222,443, and then the pay and allowances of the 42,000 petty officers and seamen amounts to nearly $18,000,000. There is an increase over that of last year due to the increased number of officers and also due to the increase in longevity pay, and the gentleman will recall, also, that we increased the pay of officers last year and also the pay of the men.

Mr. STAFFORD. I recall there was a general increase in the pay of the personnel of the navy, and I would like to ask how much, if the gentleman can state, is ascribable to the promotions and salary increases provided by the act of last year, and how much is due to the increase of the service.

Mr. PADGETT. Mr. Chairman, if I may interrupt, if the gentleman will turn to page 7 of the hearings he will get it.

Mr. FOSS. Mr. Chairman, on page 7 of the hearings is set out the difference between all being now paid, the difference being $2,657,587.

Mr. STAFFORD. Can the gentleman give an estimate as to the proportion of this amount of increase that is due to the increased salaries which were paid pursuant to the bill passed last year?

Mr. FOSS. No; we have not got that.

Mr. TAWNEY. I desire to ask the gentleman a question.

Mr. FOSS. Certainly.

Mr. TAWNEY. Will the appropriation for pay of the navy for the current year be sufficient to meet the requirements of existing law?

Mr. FOSS. Yes.

Mr. TAWNEY. There will be no deficiency in that?

Mr. FOSS. No deficiency on this appropriation.

Mr. TAWNEY. Then why is this appropriation $2,000,000 more than the current appropriation?

Mr. FOSS. That is due to the increase in the number of officers. That increases the amount $1,057,810.

Mr. TAWNEY. Is it an increase in the number of officers or increase in the pay of officers?

Mr. FOSS. Increase in the pay of new officers. They are turning them out from the Naval Academy every year—a large number—and also increase due to the commutation of quarters for officers. Then there is an increase of officers on the retired list which makes quite a large increase. Then there is the pay of 42,000 men and enlisted men on the retired list. These are all set out in this table, which I will insert in the RECORD.

Mr. TAWNEY. To maintain the navy in its present status, taking in new officers every year, will that necessitate a corresponding increase of about $2,000,000 every year to meet these conditions?

Mr. FOSS. There will be an increase, but I hardly think it will be as much as that.

Mr. STAFFORD. Can the gentleman inform the committee whether the present personnel of the navy meets all the demands required in the organization of the navy?

Mr. FOSS. We do not ask for any new men this year; we have 42,000.

Mr. STAFFORD. My question is whether the force as now organized would be sufficient in case of hostilities with another nation, or whether additional men would be required to constitute the fighting force?

Mr. FOSS. I have no doubt but what a large number of additional men would be required.

Mr. TAWNEY. Are they authorized?

Mr. FOSS. They are not authorized, but we would call upon the reserve of the country in case of a war.

Mr. TAWNEY. Is the personnel at the present up to the maximum authorized by law?

Mr. FOSS. It is up to the maximum authorized by law, 42,000 men.

Mr. PADGETT. Lacking about 2,500 of the authorized enlistment.

Mr. FOSS. It is practically up to it.

Mr. TAWNEY. So that there will be a corresponding increase under existing law every year in consequence of increasing retirements and new officers coming into the service, commutation of quarters, and so forth.

Mr. FOSS. Yes; there will be an increase every year.

Mr. LOUDENSLAGER. But, I would like to say, that will be lessened by the number of deaths which occur every year.

Mr. STAFFORD. Will there be any increase by reason of enlarging the number of battle ships, colliers, and other adjuncts of the navy?

Mr. FOSS. If we have more colliers, they will be increased. We have authorized great battle ships now, and there will be an increase in the number of men to man those ships.

Mr. STAFFORD. What is the average pay roll of the personnel of one of our large battle ships?

Mr. FOSS. Well, I should say the cost of maintenance for one of our large ships may be a million dollars a year in round numbers.

The Clerk read as follows:

PAY, MISCELLANEOUS.

For commissions and interest; transportation of funds; exchange; mileage to officers while traveling under orders in the United States, and for actual personal expenses of officers while traveling abroad under orders, and for traveling expenses of civilian employees, and for actual and necessary traveling expenses of midshipmen while proceeding from their homes to the Naval Academy for examination and appointment as midshipmen; for actual traveling expenses of female nurses; for rent of buildings and offices not in navy-yards; expenses of courts-martial, prisoners and prisons, and courts of inquiry, boards of inspection, examining boards, with clerks' and witnesses' fees, and traveling expenses and costs; stationery and recording; expenses of purchasing paymasters' offices of the various cities, including clerks, furniture, fuel, stationery, and incidental expenses; newspapers; all advertising for the Navy Department and its bureaus (except advertising for recruits for the Bureau of Navigation); copying; care of library, including the purchase of books, photographs, prints, manuscripts, and periodicals; ferriage; tolls; costs of suits, commissions, warrants, diplomas, and discharges; relief of vessels in distress; recovery of valuables from shipwrecks; quarantine expenses; reports; professional investigation; cost of special instruction at home and abroad, in maintenance of students and attachés; information from abroad, and the collection and classification thereof; all charges pertaining to the Navy Department and its bureaus for ice for the cooling of drinking water on shore (except at naval hospitals), telephone rentals and tolls, telegrams, cablegrams, and postage, foreign and domestic, and post-office box rentals; and other necessary and incidental expenses: *Provided*, That the sum to be paid out of this appropriation, under the direction of the Secretary of the Navy, for clerical, inspection, and messenger service in navy-yards, naval stations, and purchasing pay offices for the fiscal year ending June 30, 1910, shall not exceed $249,054.25: *Provided further*, That hereafter the rates of pay of the clerical, drafting, inspection, and messenger force at navy-yards and naval stations and other stations and offices under the Navy Department shall be paid from lump appropriations and shall be fixed by the Secretary of the Navy on a per annum or per diem basis, as he may elect; that the number may be increased or decreased at his option and shall be distributed at the various navy-yards and naval stations by the Secretary of the Navy to meet the needs of the naval service, and that such per diem employees may hereafter, in the discretion of the Secretary of the Navy, be granted leave of absence not to exceed fifteen days in any one year, which leave may, in exceptional and meritorious cases, where such an employee is ill, be extended, in the discretion of the Secretary of the Navy, not to exceed fifteen days additional in any one year; that the total amount expended annually for pay for such clerical, drafting, inspection, and messenger force shall not exceed the amounts specifically allowed by Congress under the several lump appropriations, and that the Secretary of the Navy shall each year, in the annual estimates, report to Congress the number of persons so employed, their duties, and the amount paid to each; that section 1545, Revised Statutes, is hereby repealed; in all, $868,550.

Mr. MACON. Mr. Chairman——

Mr. TAWNEY. Mr. Chairman——

The CHAIRMAN. The gentleman from Arkansas [Mr. MACON] is recognized.

Mr. MACON. I reserve a point of order against the new matter contained in the paragraph just read.

Mr. TAWNEY. Mr. Chairman, I wish to offer, for the information of the committee, an amendment to the proviso beginning on page 4 and ending on page 5.

The CHAIRMAN. The Clerk will read it for information only.

The Clerk read as follows:

Provided further, That it shall be the duty of the Secretary of the Navy to submit to Congress at its next session and for its consideration a schedule of rates of compensation, annual or per diem, that should in his judgment be permanently fixed by law for clerical, inspection, and messenger service in navy-yards, naval stations, and purchasing pay offices, and in fixing such rates of compensation he shall have due regard for the rates usually paid for like services, in the inspection localities, by employers other than the United States, and he shall not recommend any rate exceeding that being paid by the United States at any such yards, stations, or offices prior to January 1, 1909.

Mr. FOSS. Mr. Chairman, I understand that is simply read for information?

Mr. TAWNEY. For information only.

Mr. MACON. Mr. Chairman, I reserve the point of order if the chairman of the committee desires to be heard.

Mr. FOSS. I shall be glad to answer any question.

The CHAIRMAN. The Chair was going to ask the gentleman from Arkansas [Mr. MACON] to point out the items to which he made the point of order.

Mr. MACON. Mr. Chairman, I reserved it upon the paragraph so far as that is concerned. It contains new matter all through.

The CHAIRMAN. The Chair understands.

Mr. MACON. I notice here a new provision on page 3, line 14:

For actual traveling expenses of female nurses.

Mr. FOSS. What is the question? I did not hear.

Mr. MACON. It says:

For actual traveling expenses of female nurses.

That is a new provision that was not carried in the last bill.

Mr. FOSS. We established under separate law a corps of female nurses last year, and that was put on the appropriation bill by the Senate. It was a Senate amendment, which passed the last House and became a law. This simply provides for the actual traveling expenses of that corps. It is already law.

Mr. MACON. But this is not law.

Mr. FOSS. Yes; it is law. That was provided for in a separate amendment.

Mr. MACON. It was not carried in the last bill, however?

Mr. FOSS. No.

Mr. MACON. Now, another item. On page 4, beginning on line 12, there is a proviso:

That the sum to be paid out of this appropriation, under the direction of the Secretary of the Navy, for clerical, inspection, and messenger service in navy-yards, etc., for the fiscal year ending June 30, 1910, shall not exceed $249,054.25.

Mr. FOSS. That part of the new language is simply a limitation on that appropriation. Heretofore the Secretary of the Navy could pay out that whole sum, if he wanted to, for clerical-inspection service, but in a spirit of reform and economy we are requiring now limitations as to all these lump appropriations, or working appropriations, of the different bureaus; and in connection with this bureau, the Bureau of Navigation, we recommend that there be a limitation upon the amount expended for this service.

Mr. MACON. We will pass, then, to the next proviso, which reads as follows:

Provided further, That hereafter the rates of pay of the clerical, drafting, inspection, and messenger force at navy-yards and naval stations and other stations and offices under the Navy Department shall be paid from lump appropriations and shall be fixed by the Secretary of the Navy on a per annum or a per diem basis as he may elect.

Mr. FOSS. Yes. Under our present system they heretofore provided for a civil establishment in the law. That is, all those clerks that are on a per annum basis were provided for specifically here in our bill, but by this provision we wipe that out, because we believe it will mean greater economy to leave it in the discretion of the Secretary of the Navy, so that he can not exceed that amount provided for under each appropriation, and at the same time he can appoint clerks on a per annum basis or on a per diem basis as he may see fit.

Mr. MACON. Right there I notice "that the number may be increased or decreased at his option, and shall be distributed to the various yards and naval stations by the Secretary of the Navy to meet the needs of the naval service." Now, in connection with that——

Mr. FOSS. But that is a limitation on the amount, and the limitation placed upon that which we are now appropriating.

Mr. MACON. But, if the practice of making appropriations is to continue along the same lines that they have heretofore been made, I will insist that in my judgment if the Secretary of the Navy were to see fit to increase this force on the roll by 500 additional men, that when it came to the appropriations next time or in the urgent deficiency bill, he would make a recommendation therefor, and the appropriation would be made to pay all of the additional employees placed upon the roll.

Mr. FOSS. Let me say to my friend that that is what he can not do. In the first place, he has got to make a report to Congress every year of the number of men who are in the clerical and inspection services. That report comes before our committee; and we put a limitation upon this lump appropriation so that he can not expend this money, which he could heretofore do, by putting into the service a whole lot of clerks and inspectors, as he might see fit. We have it now absolutely under our control by this provision; far better than we had before.

Mr. MACON. I remember a few years ago Congress passed a law specifically declaring that the heads of departments should not exceed the appropriations made for the maintenance of a particular bureau or department; and yet we know that they have continued to exceed the appropriations and entail indebtedness upon this Government, that has been met regularly by the next appropriation bill providing for the conduct of the affairs of the department or bureau, right in the teeth of the law. In my judgment, if we give the Secretary of the Navy the right to name and pay all the officers or employees that he sees fit to appoint and place upon the pay roll, it will be establishing a pretty loose precedent that may prove an evil instead of a benefit.

Mr. FOSS. But we go on and provide:

That the Secretary of the Navy shall each year, in the annual estimates, report to Congress the number of persons so employed, their duties, and the amount paid to each.

Mr. MACON. I understand.

Mr. FOSS. So that we have control over these funds.

Mr. MACON. I suggested a while ago——

Mr. FOSS. And you will find the limitation upon this fund every year in our bill.

Mr. MACON. But when these 500 employees have been put on the roll, no matter whether the appropriation was sufficient to pay them or not, the Secretary will suggest to Congress that these parties performed valuable service and were entitled to their pay; and I apprehend that the appropriation will be made to pay them, no matter how far the Secretary of the Navy may have abused the privilege placed in his hands.

Mr. TAWNEY. Mr. Chairman, if the gentleman from Arkansas is through, I would like to address myself to him upon this proposition.

Mr. MACON. I will be glad to hear the gentleman.

Mr. TAWNEY. I trust the gentleman from Arkansas will not make the point of order against this provision. The matter of the employment and compensation of clerks, inspectors, and draftsmen in the classified service employed in the various navy-yards has been a subject that has been considered carefully, and has troubled Congress more or less for a number of years. So far as I am concerned, I am satisfied that it is wholly impracticable for Congress to provide specifically for the compensation of each of these classified employees in the various navy-yards and other outside places. That was what we thought could be done when we commenced the consideration of this question several years ago. It was the aim, if possible, to bring the classified employees in the navy-yards and naval stations under the same rule in respect to appropriations for their compensation that governed the subject of compensation of clerks in the departments; namely, to have them classified and then appropriate for so many in each class. But after a careful investigation of all the facts surrounding this service, it is to my mind wholly impracticable to accomplish that. Now, that being so, there is only one of two other ways we can do, and that is to appropriate, as we have done heretofore, generally for the pay of these people to be paid out of a lump-sum appropriation. To-day they are being paid out of 27 specific lump-sum appropriations, and may be paid out of over 50 lump-sum appropriations, for all appropriations made for public works of the navy are available also for the payment of clerical services. There is absolutely no limitation on any one of the 27 appropriations from which they are now paid as to the amount the Secretary can pay for clerical services in the classified service. There is no limitation upon the appropriation for public works that may be used for this purpose. This provision limits the payment for clerical service in the navy-yards. This gives a lump-sum appropriation, and places the limit on the amount the Secretary of the Navy may spend for that service.

Mr. LOUDENSLAGER. And prohibits any other expenditure for that purpose.

Mr. TAWNEY. It also prohibits the expenditure of any part of the appropriation for clerical services, except the amount specifically named for that purpose.

This matter has been gone over very carefully by Admiral Rogers, the Paymaster of the Navy, at the suggestion of the Committee on Naval Affairs and at the suggestion of the Committee on Appropriations, with a view of working out some practical plan whereby there may be a limitation placed upon the use of lump-sum appropriations; or, in the first place, whereby the number of appropriations from which clerical services can be paid would be reduced, and a limitation placed on the amount to be expended out of any lump-sum appropriation for clerical services, so that the amount can not be exceeded.

Mr. STAFFORD. What is the practical legislative difficulty in the way of following the same course as is pursued elsewhere, and limiting the appropriations from which these messengers and other men employed by the navy-yards are paid? In the bill of last year there were four or five pages given over to the designation of this character of employment, with stated salaries.

Now, as I understand the gentleman, there has been an abuse by the department availing themselves of the lump-sum appropriations in some 50 different items. From a practical legislative standpoint, which is objectionable from designating the salaries of these men and the maximum salaries to be paid to individual employees and forbidding their payment from lump-sum appropriations?

Mr. TAWNEY. One practical difficulty that is found by the Navy Department grows out of the character of the service to be performed. Another practical difficulty is the fact that the people in the classified service who are paid from lump sums and whose salaries are not specifically appropriated for are dovetailed in with those who are specifically appropriated for. Now, it is the judgment of the Paymaster-General of the Navy, who I believe is one of the most competent and one of the most conscientious officers that has ever filled that position, that this provision will effect a very material economy in the cost of the classified service in the navy-yards.

One of the principal advantages of this provision grows out of the fact that if we appropriate specifically for certain clerks for a designated navy-yard, it is impossible for the Navy Department to use those people in another navy-yard if the work becomes congested in one yard and there is not sufficient work to occupy all the people employed in another yard. This provision will enable the Secretary of the Navy to adjust his force in the different navy-yards at all times, so as to meet the congested condition in one yard and the lack of work in other yards. Therein the provision will undoubtedly work economy in the administration of the service in the various navy-yards.

Mr. STAFFORD. Will the gentleman permit a question?

Mr. TAWNEY. Yes.

Mr. STAFFORD. I recognize the difficulty for the department to forecast in advance the number of clerks who will be needed in each respective yard; but what is the practical difficulty in providing for all of these clerks in one item, and designating the number that may be available for the service in the fiscal year?

Mr. TAWNEY. If that was attempted, we would have to continue the practice that has heretofore obtained of specifically appropriating for so many clerks. If we pursued the policy in respect to all of the clerks, draftsmen, messengers, and inspectors employed in the navy-yards that we have heretofore pur-

sued in respect to some of the clerks, we would then have to specifically appropriate for so many clerks at this navy-yard, so many clerks at that navy-yard, and it would be absolutely inflexible; the Secretary of the Navy would have no discretion whatever in transferring these men from one yard to another. There would be a specific appropriation for services in that particular navy-yard.

[The time of Mr. TAWNEY having expired, by unanimous consent, at the request of Mr. STAFFORD, it was extended five minutes.]

Mr. MACON. I want to ask the gentleman a question at this point.

Mr. TAWNEY. Go ahead.

Mr. MACON. Why could not the head of a bureau be required in advance to estimate as to how many employees it might be necessary to have in connection with any particular bureau? Then we could appropriate for them just as we appropriate for so many clerks in the different branches of the Post-Office Department, in the Treasury Department, and in the other departments of the Government.

Mr. TAWNEY. I am very glad that the gentleman has asked me that question. The reason that it can not be done grows out of the difference in the character of the service. They can not estimate accurately at the beginning of this fiscal year, or six months before the beginning of the fiscal year for which they ask for appropriations, how many vessels will be sent to the Brooklyn Navy-Yard, for example, during that fiscal year for repair, or how many vessels will be sent to the Norfolk Navy-Yard, or the Mare Island Navy-Yard. The character of the work is such that it is impossible for the department to estimate accurately, and for that reason, Congress recognizing that fact, has never required it to be done, but has given the Secretary authority to employ such clerical services as are necessary, to be paid out of the general lump-sum appropriation. And it was in that practice that abuses grew up in the administration and expenditures of these appropriations.

Now, it is for the purpose of minimizing as far as possible abuses of that character in the future that the number of appropriations from which these clerical services can be paid hereafter is limited and reduced from 50 to 10, and the amount available for that service in each of the 10 classes by law can not be exceeded.

I think the provision might have gone a little further. I think there ought to be some qualification as to compensation, just the same as there is in the army, and for that reason I have offered this amendment as a paragraph:

Provided further, That it shall be the duty of the Secretary of the Navy to submit to Congress at its next session and for its consideration a schedule of rates of compensation, annual or per diem, that should, in his judgment, be permanently fixed by law for clerical, inspection, and messenger service in navy-yards, naval stations, and purchasing pay offices, and in fixing such rates of compensation he shall have due regard for the rates usually paid for like services, in the respective localities, by employers other than the United States, and he shall not recommend any rate exceeding that being paid by the United States at any such yards, stations, or offices prior to January 1, 1909.

Now, when we get that information, at the next session of Congress, or when we receive the report from the Secretary of the Navy classifying the compensation to be paid to the various employees, we can then fix by law the rate of compensation and also the amount that can be expended from the 10 lump-sum appropriations for the services of these classified employees. When we do this, I think we will have gone as far as it is possible to go by way of practical legislation to prevent the abuses for the payment of the classified service in the navy from the lump-sum appropriations, and I trust that the gentleman from Arkansas will not make the point of order, for I regard this as very important. I have reason to know that the Paymaster-General, who has devoted a great deal of time to the study of this matter, has come to the conclusion that this is a practical and economical way of dealing with this question, and the report accompanying this shows conclusively that the sum to be spent for clerical service for the next fiscal year will be considerably less than the amount spent this year. If it does not work out practically and satisfactorily, then we will adopt some other plan. I hope the gentleman from Arkansas will not make the point of order.

Mr. MACON. Mr. Chairman, I notice that this bill changes the policy of the Government heretofore prevailing in the matter of making appropriations for employees all through it. In the last appropriation bill for the support of the navy I find, under the head of "Bureau of Yards and Docks," several estimates—navy-yard at Portsmouth, N. H., clerk, at $1,400; 1 mail messenger, $2 per diem, including Sundays; 1 messenger, at $600, and so forth. In this bill it is sought to strike out these various provisions and allow the Secretary of the Navy to re-create them, or name as many clerks and messengers for this particular navy-yard as he sees fit.

Mr. TAWNEY. No; if the gentleman will permit me, he is in error. He is limited by the amount which is segregated from the lump-sum appropriation and made available for clerical service. The amount is fixed on the basis of the number of clerks in the service and compensation paid at the present time, which are reported each year, and he has no power; he can not exceed the amount segregated from the lump-sum appropriation and devote it to the compensation of these clerks. He can not exceed that. So his power to employ clerical service is limited to the amount of money that is given him.

Mr. MACON. Why would it not be safer for us to say that he shall have a clerk at the Portsmouth Navy-Yard at a certain fixed rate of pay, a messenger at a certain pay, and other officers there of a certain kind and a certain pay, as the necessities may require, and then appropriate a total amount and require the Secretary of the Navy to stay within that sum? Would not that be safer than to say that the sum shall be a certain amount, and then allow him to name all the officers he pleases, and then come in later with a deficiency for the payment of employees named by him who have performed services and have the House make the appropriation for that deficiency?

Mr. TAWNEY. If the gentleman will permit me, I will answer his question. The reason is very manifest. There is no one who can tell accurately how many clerks or how many messengers or how many draftsmen will be required in the next fiscal year.

Mr. MACON. Then, how can you appropriate a lump sum and say that he can not go beyond that and know that a sufficient number of employees have been provided for?

Mr. TAWNEY. If the gentleman will permit me, I will explain. If he has not the money to expend for any more clerks than he is employing in the Brooklyn Navy-Yard and needs more clerks, then under this provision he can transfer clerks from other navy-yards to the Brooklyn Navy-Yard.

Mr. MACON. I do not object to the transfer feature of the provision.

Mr. TAWNEY. During that congested period.

Mr. MACON. I do not object to the transfer feature of this at all, and if the gentleman will frame his amendment so as to only provide for the transfer so he can use them at the Portsmouth or any other navy-yard, or at any other point he sees fit, whenever their services are required there, I would not raise a point of order against that kind of a proposition, I do not care how new the legislation might be.

Mr. LOUDENSLAGER. Mr. Chairman, I think perhaps I can make it somewhat clear to the gentleman from Arkansas [Mr. MACON]. The amount here of the limit of the different appropriations under the different bureaus is the amount expended last year, which is as near the economic point of expenditure as was possible for the committee to arrive at; but under the law as it is now the Secretary of the Navy could have expended $7,000,000 or $8,000,000 more for these clerks and inspection hire, and pay it out from the lump sums for ordnance and armor and for construction and repair. The committee, now taking as the basis of what they believe is an economic administration of the employment of clerks, draftsmen, and inspectors, have taken some of the last year's expenditures and put them under the different bureaus, and also put a proviso under those general appropriations that not one dollar shall be expended by the Secretary of the Navy from those appropriations for clerk hire, inspection, draftsmen, and where heretofore he had the right—an unlimited right—without any statement as to the amount, to do this, we believe now we have come to a more economic position regarding the matter.

Mr. MACON. In reply to what the gentleman has said about the appropriations being as near the amount that was carried in the bill of twelve months ago as it is possible to get them, or words to that effect, I will say that I notice that the increase on this very paragraph is $145,550.

Mr. LOUDENSLAGER. I can reply to that, because that $145,000 was taken out of the appropriation of what we call "O and O," ordnance, and out of the appropriation for construction and repair. We took that from them and say they can not spend any more money out of this appropriation and put it in here.

Mr. MACON. If you can so particularize as to the service that will be necessary to be performed at these different navy-yards or places, whatever they may be, as to be able to name a lump sum of money to pay therefor, then why, in the name of reason, common sense, and every other good thing, could not the committee come to some idea as to how many employees would be needed, how much money it would take to pay them?

Mr. OLCOTT. We know how many men, but we do not know at which yard they are to be employed.

Mr. MACON. I do not object to the transfer feature, but I do think Congress should say how many clerks we are going to have and what their salaries shall be and not let the head of some bureau say it.

Mr. ROBERTS. Will the gentleman yield to me for a moment?

Mr. MACON. I yield to the gentleman from Massachusetts.

Mr. ROBERTS. I think I can give the gentleman from Arkansas some information on the present practices which this legislation is seeking to do away with. The gentleman read a moment ago the provision for clerks in a certain bureau in the navy-yard at Portsmouth, N. H. Doubtless he thinks, as most any person would think from reading the appropriation bill of last year, that the particular clerks named there were the only ones employed in that bureau in that yard.

Mr. MACON. They ought to have been.

Mr. ROBERTS. We will not dispute on that point, but as a matter of fact the naval appropriation bills for years have carried for each bureau in each yard what is called the "civil establishment," specifying a few clerks, messengers, and others doing clerical service. They were on a per annum basis.

The number specified in the bill, however, was in no instance anywhere near the number of men employed in that bureau in the yard. These extra ones were called "special laborers," and were on a per diem basis, and their pay came out of the appropriations for armor and armament, ordnance and ordnance stores, and so forth. Congress had no way whatever of knowing how many men in the various bureaus of the navy-yards were doing clerical work, and they did not know where their pay was coming from. When we appropriated a given number of millions for armor and armament—for instance, for the armor and guns that went on the battle ships—we naturally thought every dollar of that went toward the purchase of armor and guns. But we found out after a while that considerable sums, running perhaps into hundreds of thousands of dollars, were being taken out of the appropriations to pay for purely clerical services in the various bureaus of ordnance and in various other departments of this Government in the yards and stations throughout the country.

Mr. MACON. Why does not the gentleman take some steps to prevent that very thing?

Mr. ROBERTS. One moment, if the gentleman will pardon me. I will come to that, and I think he will appreciate it. Every time, since I have been a Member in this House, when there has been a proposition on a naval bill to put in an additional clerk in any of those bureaus, some person has risen to a point of order that this is new legislation, and it is immediately stricken out.

Mr. MACON. Just there, Mr. Chairman, I would like to suggest to the gentleman from Massachusetts that he is in error. As I understand it, under existing law the Appropriations Committee has the right to appropriate for additional clerks in every branch of the departments—as many clerks as it thinks is needed in any branch of the various departments of the Government—and the point of order will not lie against it; it only lies against an increase of their salaries.

Mr. FITZGERALD. The gentleman is mistaken.

Mr. ROBERTS. If the gentleman will pardon me, the Appropriations Committee can provide for clerks in Washington, but not for clerks in the arsenals, gun factories, naval stations, and similar places outside of Washington. Those positions are provided for in the appropriation bills of the Naval Committee or Military Committee or some other committee.

Mr. FITZGERALD. If the gentleman from Arkansas will yield and permit, I think I can state the case. The law specifically prohibits—if the gentleman from Arkansas will listen to this—I will state the law specifically prohibits the employment in navy-yards and naval stations of per annum clerks except those that are specifically estimated and appropriated for, and it compels the employment of other clerks on a per diem basis, and they have been employing this large number of clerks. I desire to say to the gentleman in connection with this matter, here is the situation in the Brooklyn Navy-Yard. They are starting to build a battle ship and there is a permanent force of clerks, for instance, in the Bureau of Construction and Repair. It is necessary, in connection with the work on the battle ship, to employ a large number of clerks, inspectors, draftsmen, and other employees. The department, under the authority it possesses, has been employing them out of the general appropriation for the construction of this ship upon a per diem basis.

Now, the Secretary of the Navy says:

> If you will give me a lump sum and permit me to organize this force, put those there either on a per diem or per annum basis, as may be best, if you will give me power to increase the force within a reasonable limit or to decrease it, I can conduct the force there the same as the head of any great commercial establishment would. When clerks are unnecessary, drop them; when additional clerks are necessary, take them on and at the same time do more efficient work at a less expenditure.

The Paymaster of the Navy called upon me, and I went over it very carefully with him and other people, and I became convinced that this practice, which is now in force in the War Department, would work out beneficially and would really result in economy. This thing happened. There are to-day in a number of these navy-yards clerks doing identical work side by side, one on a per annum and the other on a per diem basis. One of them receiving less privileges than the other creates discord and dissatisfaction, and these men are actually permanent employees, although on a per diem basis; and it would result in much more thorough work, in my judgment, if the department were given the authority, with the restrictions the committee has wisely put on it, to utilize a lump sum instead of an unlimited sum for the purposes specified.

Mr. ROBERTS. Mr. Chairman, let me say a word, in conclusion, to the gentleman from Arkansas. I have been particularly interested in this very subject for a number of years, seeking, to the best of my ability, to get a better control in the way of correction over the clerical expenditures of the Navy Department in the navy-yards and naval stations.

I became cognizant of the fact some time ago that no person outside of the Navy Department had the slightest idea how many people doing clerical work were really employed in all these navy-yards and stations, and upon investigation found that the number could be increased to the total amount of so great an appropriation as that for armor and armament, if necessary, without coming to Congress for any authorization. Now, the committee have been working on this question for several years and, in connection with the Paymaster-General of the Navy, have finally evolved this legislation as a practical solution of the question. The Secretary of the Navy can not employ in the department of steam engineering, for instance, in all the bureaus of steam engineering in all the yards and stations of the country, any more clerks, any more men doing clerical service, than the total amount of the limitation that we place on the appropriation for steam engineering.

Mr. MACON. I answered that inquiry a few moments ago, Mr. Chairman, by saying that the department has been exceeding appropriations that have been made for the maintenance or conduct of the affairs for the particular department.

Mr. ROBERTS. The gentleman can not put his finger on an appropriation for that purpose.

Mr. MACON. I will not say the navy particularly, but some of the departments have.

Mr. ROBERTS. The navy have exceeded the appropriation for clerical service, but they have helped it out by taking the money out of another appropriation. That has been the condition that we are seeking to do away with, so that we will know just where the money comes from for clerical service, and how much in their opinion is necessary.

Mr. MACON. If you would name the employees and say they should receive so much per annum or so much per day, then you could get at a proper amount to appropriate for their services.

Mr. ROBERTS. Let me say just a word further to the gentleman. No great, successful, private business undertakes for a moment to fix irrevocably the compensation their employees shall receive, whether they be clerks or whether they be workingmen, and these navy-yards should be great business enterprises and within a reasonable limit have the same elasticity as to the number of clerks and their compensation that you would find in any private undertaking, and this is what we have done in this provision. And let me say just one word further. The amount named as the limitation on every one of these bureaus is the result of computation based on the number of men now actually employed plus the number they think they would require for another year.

Mr. FITZGERALD. And not only that——

Mr. ROBERTS. And there is the limitation. The Secretary can not exceed it in this year.

Mr. FITZGERALD. The department has submitted in a document to Congress a statement showing the clerks, and compensation per diem and per annum, employed at these various places and expecting to be employed, and it was upon this detailed information that the amounts here have been made. That detailed information is before Congress now. It is in House document 1224 of the second session of the Sixtieth Congress.

Mr. MACON. I want to ask the chairman of the Committee on Appropriations if this is not a step in the direction of giving all of the departments of the United States the right to name the number of employees?

Mr. FITZGERALD. I think not. It does not apply at all to the civil establishment in Washington.

Mr. MACON. But it does apply to civil establishments elsewhere. If we have it elsewhere, why not have it here in Washington?

Mr. FITZGERALD. But the department has to-day the power to employ all the clerical, inspection, and drafting forces it needs in these various stations, out of lump appropriations, without any limitation except this one—that is, that the employees must be put upon a per diem instead of a per annum compensation. This provision will restrict to the amounts specified under the various heads the number that we can appropriate for.

Mr. MACON. Mr. Chairman, this is a big question, and I have not the time, or have not had, to go into it as this committee has done. The members of the committee, as well as the members of the Appropriation Committee, whose duty it is to guard the expenditures of this Government, assure me that this is not a precedent looking to the giving to the heads of the various departments of the United States the right to select as many clerks as they desire and pay them such salary as they see fit.

That being the case, I am not going to put my judgment against the combined judgment of the Committee on Appropriations and the Committee on Naval Affairs in this particular instance, and I will not insist upon the point of order.

Mr. TAWNEY. I want to say, Mr. Chairman, to the gentleman from Arkansas that there is no thought of using this as a precedent with respect to the classified service in the executive departments in the city of Washington. There is no thought of that kind whatever.

I now offer the amendment I sent to the Clerk's desk.

The Clerk read as follows:

After "each," line 15, page 5, insert:
"*Provided further*, That it shall be the duty of the Secretary of the Navy to submit to Congress at its next session and for its consideration a schedule of rates of compensation, annual or per diem, that should, in his judgment, be permanently fixed by law for clerical, inspection, and messenger service in navy-yards, naval stations, and purchasing pay offices, and in fixing such rates of compensation he shall have due regard for the rates usually paid for like services in the respective localities by employers other than the United States, and he shall not recommend any rate exceeding that being paid by the United States at any such yards, stations, or offices prior to January 1, 1909."

Mr. FOSS. I have no objection to that amendment, only I think it ought to be amended in this particular: Insert after the word "offices" the words "superintending constructor's office and inspection of engineering material."

The CHAIRMAN. The Clerk will report the amendment offered to the amendment.

The Clerk read as follows:

After the word "offices" insert "superintending constructor's office and inspection of engineering material."

Mr. FOSS. Now I accept the amendment.

Mr. TAWNEY. I accept the amendment to the amendment offered by the gentleman.

The CHAIRMAN. The Clerk will report the amendment as amended.

The Clerk read as follows:

After "each," line 15, page 5, insert:
"*Provided further*, That it shall be the duty of the Secretary of the Navy to submit to Congress at its session and for its consideration a schedule of rates of compensation, annual or per diem, that should in his judgment be permanently fixed by law for clerical, inspection, and messenger service in navy-yards, naval stations, and purchasing pay offices, superintending constructors' offices, and inspectors of engineering material; and in fixing such rates of compensation he shall have due regard for the rates usually paid for like services, in the respective localities, by employers other than the United States, and he shall not recommend any rate exceeding that being paid by the United States at any such yards, stations, or offices prior to January 1, 1909."

The amendment as amended was agreed to.

Mr. FITZGERALD. Mr. Chairman, I offer the following amendment:

The Clerk read as follows:

After the amendment just adopted insert the following:
"*Provided further*, That persons employed in the clerical, drafting, and inspection forces at navy-yards or stations discharged for lack of work or insufficiency of funds shall thereafter be preferred in employment in such navy-yards and stations in the clerical, drafting, and inspection and messenger forces."

Mr. FOSS. I reserve the point of order to hear from the gentleman.

Mr. FITZGERALD. Well, the amendment was offered to new matter in the bill which was subject to the point of order, and it is germane to the provision.

The CHAIRMAN. The Chair thinks the amendment is not offered to new matter in the bill. An amendment was pending before the committee, and no suggestion was made of amendment; and that amendment has been disposed of.

Mr. FITZGERALD. It comes in this paragraph immediately after the new matter. But there may not be any difficulty about it, Mr. Chairman. Under the provisions in the bill, it will be possible for the Secretary of the Navy, at any time the needs of the service require, to dismiss men in the clerical, inspection, and messenger services. If these men be dismissed merely because of lack of work or insufficiency of funds, the effect of this amendment will be to give them preference in employment in the service. It does not cover the case where a man is dismissed for any cause except lack of funds or lack of work. It seems to me where a man has been employed as a clerk, or in the drafting service, and his work has been satisfactory, and he has been dismissed under this power simply because there is nothing for him to do, that he should be preferred when men are to be taken back in that particular service.

Mr. OLCOTT. Will the gentleman yield to me for a moment?

Mr. FITZGERALD. Certainly.

Mr. OLCOTT. I have no particular objection to the theory of the amendment, but I think there certainly should be some time limitation put upon it. You do not limit it as to time. There should be a limit of two years, or something of the kind.

Mr. FITZGERALD. I think one year would do.

Mr. PADGETT. I would like to ask the gentleman this question: Suppose, during the interim between his dismissal and the time for further employment, the Government can employ one better qualified and more efficient; should the less efficient be given preference?

Mr. FITZGERALD. Mr. Chairman, if a man is discharged because of inefficiency that will settle it, and this will not apply; but just to show the effect of the suggestion of the gentleman, somebody will say he will not take back a man who was discharged simply because he had nothing to do, because somebody suggests that some one is a more efficient man. I wish to eliminate that question from consideration of the matter as far as I can.

Mr. BATES. Do you not think it limits the discretion now lodged in the Secretary?

Mr. FITZGERALD. I am not going to put myself in the position of saying that. All this does is that when a man is dropped from the clerical force because there is a lack of work or an insufficiency of funds he is to be given preference in employment. Why should not clerks who are dropped simply because there is no work for them and no funds to pay them be given preference to be taken back in the service when there is employment?

Mr. DAWSON. If the gentleman will permit me. As he is well aware, all of these clerks and clerical employees go into the service through the Civil Service Commission. They are all classified employees, and it seems to me that there is ample provision in the general law relating to the classified service, giving such preference as they are entitled to in connection with reemployment.

Mr. FITZGERALD. If a man be dropped from the service, as I recall the provisions of the civil-service act, he can be reinstated.

Mr. DAWSON. Within a year.

Mr. FITZGERALD. Within one year; and that, it seems to me, is a proper provision to insert here.

Mr. ROBERTS. He can be reinstated, but he does not have to be.

Mr. FITZGERALD. I do not wish to be put in the attitude of going to the department and asking favors. I think if a man's services have been such that he was an efficient and competent man, he ought to go back on his merits within the proper time.

Mr. DAWSON. Does the gentleman contemplate to make this continuous, or does he intend to limit this preference to one year?

Mr. FITZGERALD. In response to that suggestion I will say that I think a year would be a proper time. I do not say that it has occurred or that it will occur, but it might occur that there would be a reduction of force to-day, and next week the same number of men might be taken back, and a man who had been employed for years and was a competent man, because of the fact that he lacked certain backing would be unable to get back into the service. I think that is an injustice. I think a modification "within one year from the date of his separation from the service" would meet the objection.

Mr. OLCOTT. I move to amend the proposed amendment by inserting after the word "shall" the words "for one year," so that it will read, "shall for one year thereafter."

Mr. FITZGERALD. I am glad to modify the amendment in that way.

The CHAIRMAN. If there be no objection, the amendment will be modified as suggested, and it will be reported by the Clerk as modified.

The Clerk read as follows:

Provided further, That persons employed in the clerical, drafting, and inspection force at navy-yards or stations discharged for lack of work or insufficiency of funds shall for one year thereafter be preferred for employment in such navy-yards or stations in the clerical, drafting, inspection, and messenger forces.

The CHAIRMAN. Is the point of order withdrawn?

Mr. FOSS. Mr. Chairman, I am rather opposed, as a general principle, to limiting the discretion of the Secretary of the Navy in a matter of this character, in the employment of men whom he shall take back after a number have been discharged; but in view of the amendment providing that it shall apply for one year, which, I understand, is practically the civil-service rule, I shall withdraw my point of order to the amendment.

The amendment was agreed to.

The Clerk read as follows:

Contingent, navy: For all emergencies and extraordinary expenses, exclusive of personal services in the Navy Department, or any of its subordinate bureaus or offices at Washington, D. C., arising at home or abroad, but impossible to be anticipated or classified, to be expended on the approval and authority of the Secretary of the Navy, and for such purposes as he may deem proper, $46,086: *Provided*, That the accounting officers of the Treasury are hereby authorized and directed to allow, in the settlement of accounts of disbursing officers involved, payments made under the appropriation "Contingent, navy," to civilian employees appointed by the Navy Department for duty in and serving at naval stations maintained in the island possessions during the fiscal year 1910.

Mr. MACON. Mr. Chairman, I move to strike out the last word, for the purpose of asking a question in regard to this appropriation. I notice in last year's bill the amount carried for this purpose was $65,000, and this year it is $46,086. Did the gentleman find that he had appropriated too much a year ago?

Mr. FOSS. No; but in view of this provision which we have just passed, we have taken out the clerical service which was formerly paid for out of this appropriation, and reduced it by that amount.

Mr. ROBERTS. You will find in all these items a reduction where the clerical force came in under the old provision.

Mr. FOSS. It has been provided for in another way, and so has been taken out all along.

Mr. MACON. I withdraw the pro forma amendment.

The Clerk read as follows:

BUREAU OF NAVIGATION.

Transportation: For travel allowance of enlisted men discharged on account of expiration of enlistment; transportation of enlisted men and apprentice seamen at home and abroad, with subsistence and transfers en route, or cash in lieu thereof; transportation to their homes, if residents of the United States, of enlisted men and apprentice seamen discharged on medical survey, with subsistence and transfers en route, or cash in lieu thereof, transportation of sick or insane enlisted men and apprentice seamen to hospitals, with subsistence and transfers en route, or cash in lieu thereof; apprehension and delivery of deserters and stragglers, and for railway guides and other expenses incident to transportation, $818,000.

Mr. MACON. Mr. Chairman, I move to strike out the last word for the purpose of getting some information from the chairman of the committee concerning this appropriation. The last naval appropriation bill carried $475,000 for this purpose. This one carries $818,000, an increase of $343,000. The chairman yesterday, in his remarks on the bill when he presented it to the House, stated that there had been no increase of men asked for this year. That being the case, I can hardly reconcile the increase of appropriation here unless he expects that there will be a great number of deserters and stragglers who will have to be apprehended and brought to account for their desertions and stragglings.

Mr. FOSS. I want to say that there were two deficiencies under this appropriation, one of $110,000 and one of $135,000.

Mr. MACON. Then they exceeded the appropriation of last year?

Mr. FOSS. Yes; the railroad rates are higher now, and the transportation of men since we passed the railroad rate law has cost more. The Government does not get as good rates as they did before that.

Mr. MACON. Does the gentleman feel certain that the appropriation which we will make this year will not be exceeded?

Mr. FOSS. Well, it is a very liberal appropriation, and I think it will not be exceeded.

Mr. MACON. I will withdraw the pro forma amendment.

Mr. KELIHER. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Add proviso, line 22, page 6:

"*Provided*, That the Secretary of the Navy is hereafter authorized to transport to their homes or places of enlistment, as he may designate, all discharged naval prisoners. The expense of such transportation shall be paid out of any money that may be to the credit of prisoners when discharged; where there is no such money, the expense shall be paid out of money received from fines and forfeitures imposed by naval courts-martial."

Mr. STAFFORD. Mr. Chairman, I reserve a point of order to that amendment.

Mr. FOSS. I would like to ask the gentleman from Massachusetts if this is the same provision that he showed me some time ago, and which is recommended by the Navy Department?

Mr. KELIHER. I desire to state, in answer to the question of the chairman of the committee, that what this amendment will obviate has been sought for some time by the Secretary of the Navy and every official in the Navy Department who comes in contact with the handling of naval prisoners. We have about 1,200 naval prisoners, distributed at Boston, Portsmouth, Mare Island, and Puget Sound. We recruit the men from whom these prisoners come from all over the country. A man may be recruited in the city of Minneapolis, in the gentleman's [Mr. STAFFORD's] State of Minnesota, go into the navy, commit some breach of discipline, be court-martialed, and sentenced to the naval prison in Boston. When his sentence expires he is discharged upon the streets of Boston without one penny to his credit. The result has been, to an alarming extent, that the ranks of crime have been recruited from these unfortunates, that our state board of charity has had to send back innumerable men to all sections of the country, and it is a crying evil that should have been remedied long ago.

Now, if my amendment obtains, it will eliminate a disgraceful feature of naval conditions which exists to-day. It will insure a prisoner when discharged a railroad ticket to the place from whence he was recruited or enlisted or to his home, the discretion of the Secretary of the Navy to designate which.

Mr. Chairman, I have innumerable cases here to cite in proof that this is a crying evil. The authorities are troubled in Portsmouth, N. H., in Boston, at Puget Sound, and at Mare Island. We have had cases in great numbers in the city of Boston, where the charity bodies have had to provide for these poor devils who have been cast penniless from the naval prison without a penny in their pockets, and no way of obtaining the pressing necessities of life, not to speak of the means to reach home. When you stop to think that federal prisoners, when discharged from federal prisons where they were sent for committing offenses against federal laws, are provided transportation to the place of their conviction; that Congress annually appropriates money to send these men to their homes upon the completion of their sentences—men who have committed serious and often heinous crimes; that you appropriate money to meet them at the prison door to send them back home, it would seem that these poor devils of bluejackets should have at least equal treatment.

This matter has been thoroughly thrashed out at the department; it has been recommended by the Secretary of the Navy, and is in accord with the consensus of the best opinion of navy officials who have studied the method of the disposition of navy prisoners, who think that when this provision contained in my amendment is put into operation many of these incidents, so annoying to the communities in which naval prisons are located and this disgraceful phase of naval life, will be obviated. To show how Boston is called upon to care for men from all over the country who are discharged from the naval prison in that city, I submit the following list, showing names and home addresses of—

Prisoners discharged, United States naval prison, Boston, Mass., between July 1 and December 31, 1908.

Name.	Date.	Home address.
Floyd Bramer	July	Cincinnati, Ohio.
Frank W. Cochran	do	Decatur, Ill.
Frank B. Collins	do	Providence, R. I.
Peter Rittenhouse	do	Philadelphia, Pa.
John L. Reczynski	do	St. Paul, Minn.
Harry Robinson	do	Toledo, Ohio.
Harry M. Sams	do	Ripley, Ohio.
Herman Tants	do	Brooklyn, N. Y.
John H. Webster	do	Pomeroy, Ohio.
Joseph Zeidman	do	385 Madison street, Buffalo, N. Y.
William A. Breen	August	Brooklyn, N. Y.
William F. Chaltraw	do	Bay City, Mich.
John A. Clifford	do	Toronto, Canada.
William Du Bois	do	Rochester, N. Y.
John A. Eckert	do	Detroit, Mich.
Jack Hurley	do	Boulder, Colo.

Prisoners discharged, United States naval prison, Boston, Mass., between July 1 and December 31, 1908—Continued.

Name.	Date.	Home address.
Archibald I. Loughery	August	Philadelphia, Pa.
Percy L. Makepiece	do	723 Main street, Worcester, Mass.
Frank L. McDonald	do	Washington, D. C.
Lawrence J. O'Connor	do	212 North Second street, Newcastle, Del.
Harold Shannon	do	Boston, Mass.
John H. Taylor	do	Philadelphia, Pa.
Richard P. Asselin	September	Chesaning, Mich.
Charles D. Bryant	do	Kansas City, Mo.
Joseph Corey	do	Boston, Mass.
William H. Darey	do	Natick, R. I.
Albert G. Densham	do	Matteson, Ill.
Joseph Dwyer	do	
Adrian Fauteux	do	New York, N. Y.
Harry Gould	do	Pittsburg, Pa.
Robert B. Hyatt	do	Albany, N. Y.
Charles W. Johnson	do	Boston, Mass.
John A. Lane	do	Somerville, Mass.
George E. Massie	do	New York, N. Y.
Alexander McKinnon	do	McKenzie (?) Gladwin, Mich.
John F. Obarski	do	Chicago, Ill.
George W. Redmond	do	
Arthur B. Reardon	do	9606 Cherry street, Toledo, Ohio.
James H. Wilson	do	Louisville, Ky.
James C. Brown	October	Philadelphia, Pa.
Robert J. Brown	do	Attleboro, Mass.
Joseph Clancy	do	Portland, Me.
John Cohn	do	None.
George Davis	do	Do.
Wilton P. Eddy	do	Edgewood, R. I.
Albert I. Gordon	do	Quincy, Mass.
Cleveland P. Harvey	do	Oceanville, Me.
William Hoffman	do	Baltimore, Md.
Adam H. Humbert	do	Tipton, Tenn.
James F. Hyde	do	Kansas City, Mo.
George C. Jackson	do	Wantagh, Long Island, N. Y.
Alvin Lee	do	Bay City, Mich.
Frank P. McDonald	do	1012½ East Third street, Hamilton, Ohio.
Frank O'Brien	do	2749 Wharton street, Philadelphia.
Lewis L. Pletsch	do	Baltimore, Md.
William E. Quinn	do	Decatur, Ill.
Samuel J. Scheffler	do	(a)
Luther Steele	do	Wayne, Nebr.
Charles Williams	do	Boston, Mass.
Richard E. Baker	November	Kansas City, Mo.
August L. A. Ballert	do	Toledo, Ohio.
Joseph J. Billups	do	Portland, Oreg.
Louis W. Campbell	do	Milwaukee, Wis.
Wilkie W. Collins	do	Des Moines, Iowa.
Harry E. Carney	do	Boston, Mass.
Arthur P. Dickson	do	Woburn, Mass.
William Dory	do	Chicago, Ill.
Edgar E. Edwards	do	Portage, Wis.
Albert Gaub	do	Plainfield, N. J.
Charles E. Hommerbocker	do	New York, N. Y.
Albert W. Jack	do	Do.
George M. Leavey	do	Boston, Mass.
Walter R. Lincoln	do	541 Michigan street, Buffalo, N. Y.
John Martin, alias Manton Marble, alias John Marble.	do	Columbus, Ohio.
Harold J. McNeill	do	Portland, Me.
Curl L. Orton	do	Portland, Oreg.
William E. Owen	do	Louisville, Ky.
John T. Ryan	do	556 West Fifty-fifth street Chicago, Ill.
George W. Stansbury	do	1422 Poplar street, St. Louis, Mo.
William H. B. Taggart	do	Shenandoah, Pa.
Allen J. Webster	do	Boston, Mass.
Ralph M. Welch	do	Meriden, Conn.
Edward Aaron	December	Chicago, Ill.
Ludwig Abraham	do	New York, N. Y.
William P. Arndt	do	Dayton, Ohio.
Charles W. Bell	do	Poplar Bluff, Mo.
Louis H. Burger	do	Baltimore, Md.
Leslie M. Chew	do	Indianapolis, Ind.
Charles F. Davis	do	Rochester, N. Y.
Gordon Delks	do	Martinsville, Ind.
Gordon District	do	Boston, Mass.
Thomas J. Esler	do	Do.
Havelock Frost	do	Argyle Sound, Nova Scotia.
Charles M. Gantz	do	Louisville, Ky.
William Hennerd	do	Chicago, Ill.
Michael J. Hoffman	do	Allegheny, Pa.
Arthur A. Kiggins	do	Syracuse, N. Y.
Albert F. Killgoar	do	South Boston, Mass.
George Marshall	do	Sunol, Cal.
William Miller	do	540 West Seventy-ninth street, New York, N. Y.
Earl D. Ramsey	do	Pueblo, Colo.
Peter Richards	do	Lowell, Mass.
John Stablenski	do	350 Brady street, Milwaukee, Wis.
Thomas H. Sullivan	do	Boston, Mass.
John F. Walsh	do	Providence, R. I.
Louis E. Woodson, alias Louis A. Woods.	do	Springfield, Ill.

[a] Born in Philadelphia; enlisted in New York; says he has no home.

Mr. TAWNEY. What is the practice as to the discharge of prisoners from military prisons in the army?

Mr. KELIHER. I understand that they are transported home, but I can not speak with authority.

Mr. FITZGERALD. They are transported to the place of enlistment, I think.

The CHAIRMAN. Does the gentleman from Wisconsin insist on his point of order?

Mr. STAFFORD. With the statement that this amendment has the approval of the Secretary of the Navy and the chairman of the Naval Committee, I will withdraw the point of order.

The amendment was agreed to.

Mr. GAINES of Tennessee. Mr. Chairman, I would like to ask the chairman of the committee a question. What railroads out West at this time carry the federal soldiers and our ammunition and muniments of war either at a reduced rate or free? The gentleman will remember that in chartering several of these western railroads the charter provided they should charge the Government, I think, less than they charge the public at large. What is the law now on that subject, or is there a law?

Mr. FOSS. I will state that this particular appropriation has necessarily been increased in view of the fact that in July of the present year the Central Pacific and the Western Pacific railroad companies completed the payment of their bonded indebtedness to the Government, and no further deduction was made from bills of those companies.

Mr. GAINES of Tennessee. The gentleman will remember that the charters were granted with some such provision as that, that the Secretary of War should fix the rate at which they should carry the government supplies and the army and the members of the navy.

Mr. FOSS. Yes.

Mr. GAINES of Tennessee. They should make certain concessions to the Government, because the Government had given them these rights of way. The gentleman does not know whether that has been abandoned or abrogated?

Mr. FOSS. I think it is still in force.

Mr. SIMS. Mr. Chairman, I move to strike out the last word for the purpose of asking a question. I understood the chairman of the committee to state that rates had been advanced since the rate-bill legislation had been passed. Am I correct about that?

Mr. FOSS. I understand that the military traffic is the same as that of the civilian.

Mr. SIMS. The gentleman said it had been increased after the passage of that legislation.

Mr. FOSS. Yes; I think it has been.

Mr. SIMS. Since the rate legislation?

Mr. PADGETT. They were given special rates before.

Mr. FOSS. Before the railroad-rate legislation the Government obtained special rates.

Mr. SIMS. And now they do not?

Mr. FOSS. Now, they do not.

Mr. SIMS. Does the gentleman understand that this increase in rate is retaliatory?

Mr. FOSS. I do not know that I consider it so.

Mr. SIMS. Then it is a mere coincidence of the passing of the railroad-rate legislation that the railroads have put up rates on the Government.

Mr. FOSS. I shall have to let the gentleman judge of that for himself.

Mr. SIMS. The chairman referred to that as a fact.

Mr. STAFFORD. I wish to say in reply to the query propounded by the gentleman from Tennessee [Mr. SIMS], that in the land-grant roads it is a matter of charter whereby the rates are fixed, and by which the Government is given a preferential rate for the transportation of troops and enlisted men and supplies, but as I understand the increased rates on other roads since the enactment of the interstate-commerce act, it has resulted by reason of the special provision of law itself that forbids the railroad making any preferential charge to the Government or to anybody else.

The practice heretofore has been for the Government to receive a preferential rate under a contract for the carriage of men and supplies, and to-day they are compelled because of the law to treat the Government on the same plane as they take individuals. It is the result of our own enactment by which the railroads are compelled to treat the Government on the same terms as they treat individuals and all other users of railroads.

Mr. SIMS. Under the rate bill can a railroad not transport a regiment of soldiers for less money than it would the same number of private individuals the same distance?

Mr. STAFFORD. I say it can not. It must treat the Gov-

ernment in the same way that it treats individuals. It could, under the railroad rate law, make a rate for a larger number of men if it saw fit.

Mr. NORRIS. That would have to be open to everybody.

Mr. STAFFORD. That would have to be accorded to everybody and all treated alike. The railroads can no longer under the rate law make preferential agreements with the Government.

Mr. SIMS. In the transportation of soldiers, sailors, and marines, does not the Government pay out a very large sum of money?

Mr. STAFFORD. There is no question that the Government pays out large sums of money for that.

Mr. SIMS. And that comes out of the taxpayer?

Mr. STAFFORD. That does not need any reply. That is obvious.

Mr. SIMS. And why should we not, if the law is as the gentleman has stated, amend the law so as to permit the railroads in transporting the property of the Government, soldiers, sailors, and marines to give a preferential rate?

Mr. STAFFORD. I am not here at the present time to argue the merits of the proposition whether the Government should receive a preferential rate over an individual. That is a matter of business, and I do not see any reason why the Government should be treated any differently from any private concerns, and under the interstate-commerce act the Government is accorded the same treatment as that accorded to a private individual.

Mr. SIMS. The gentleman from Illinois [Mr. Foss], the chairman of the committee, stated the facts merely, without giving any reason for the facts, and I made these inquiries to develop the facts; and if they have been developed, I feel my inquiry has not been entirely in vain.

Mr. DAWSON. Let me add just one word. Admiral Pillsbury, in his testimony before the committee, made this statement:

We do not begin to get the favorable rates from the railroads that we once did.

Mr. SIMS. That leaves the idea that it is the railroads and not the law.

Mr. DAWSON. Oh, no; it is by reason of the enactment of the law which puts the Government on the same footing with individuals and which opens the highways of transportation to one equal treatment of all alike, to the small shippers, as well as to the big shippers.

Mr. SIMS. But I would like to ask the gentleman who has knowledge, why should not the railroads be permitted to transport government material, soldiers, sailors, and supplies, which must be paid for by taxation, why should not they be permitted to do it at a lower rate?

Mr. NORRIS. Why should they?

Mr. SIMS. Simply because it comes by means of taxation, and if the railroads, having a large amount of shipments to be made by the Government, desire or are willing to take it at a lower rate than the same service to individuals or a corporation, in the interest of the taxpayers, why should not they be permitted to do so?

Mr. NORRIS. Yes; but the gentleman must remember the large shipper is placed on an equal basis with every other man.

Mr. SIMS. Yes; but the large private shipper is not shipping soldiers or sailors, for which the taxpayer must provide the money.

Mr. NORRIS. There is no reason why, if the Government is a large shipper, it should be treated any better than other shippers.

Mr. GAINES of Tennessee. Mr. Chairman, I renew the amendment because I want to inquire a little further on this. I want to ask the gentleman——

The CHAIRMAN. The gentleman will suspend until the Clerk reaches the point in the bill where it is in order.

The Clerk read as follows:

Recruiting: Expenses of recruiting for the naval service; rent of rendezvous and expenses of maintaining the same; advertising for and obtaining men and apprentice seamen; actual and necessary expenses in lieu of mileage to officers on duty with traveling recruiting parties, $130,000: *Provided*, That no part of this appropriation shall be expended in recruiting seamen, ordinary seaman, or apprentice seamen, unless a certificate of birth or written evidence, other than his own statement or statement of another based thereon, satisfactory to the recruiting officer, showing the applicant to be of age required by naval regulations, shall be presented with the application for enlistment.

Mr. GAINES of Tennessee. The gentleman from Wisconsin spoke about land-grant railroads. I wish you would tell us which those railroads are, and whether or not these land-grant railroads have raised the rates on the Government for transportation; and if so, to what extent.

Mr. STAFFORD. I do not profess to be an encyclopedia of information in regard to land-grant railroads, having only a meager knowledge——

Mr. GAINES of Tennessee. I think the compliment is justified——

Mr. STAFFORD (continuing). Of railroad legislation. I have not stated in any remarks I have made so far that these land-grant railroads have violated in any way the conditions of the grants which directed them to carry at a less rate troops and supplies for the Government. As to what railroads are land-grant roads, I may say that the first land grant to a railroad was that granted to the Illinois Central Railroad Company about 1855, or somewhere in the fifties. This grant was the inauguration of that system.

Subsequently land grants were given to most, if not all, of the northwestern and western railroads and to all transcontinental lines west of the Mississippi, with the exception of the Great Northern and the road that is now building to the west, the Chicago, Milwaukee and St. Paul.

Mr. GAINES of Tennessee. Does the gentleman understand the Hepburn railroad-rate law we passed here was so amended as to permit the railroads to abandon the limitations of the charters and permit them to charge the Government what they please?

Mr. STAFFORD. Oh, farthest from that. The land-grant condition is still obligatory upon the railroads, and the interstate-commerce act in no wise affected it, but it did affect, as I tried to represent, the other railroads that were not subject to any contract or any obligation, and those railroads are not obliged to grant to the Government a preferential rate over that accorded to individuals.

Mr. GAINES of Tennessee. Do these land-grant railroads fail now to give the special rates to the Government in its transportation that it formerly gave because of the land-grant requirements?

Mr. STAFFORD. I have no information one way or the other on the subject, but I do not believe that it is contended by anyone that any attempt has been made to violate the agreement under which they received their grants.

Mr. NORRIS. It would be a violation of law, would it not, if it gave preferential rates?

Mr. GAINES of Tennessee. What was that?

Mr. NORRIS. I was just suggesting that if the land-grant railroads, or any other, make a different rate to the Government than it did to the public, it would be a violation of the law known as the "Hepburn Act."

Mr. GAINES of Tennessee. I am very glad this question has come up. I think the department could very well afford to look into it, and I think the railroads ought to be reminded that now and then we dig up their charters. And I am very glad the gentleman from Wisconsin has stated what he has.

Mr. STAFFORD. I believe the chairman of the committee has stated that the increase in this appropriation and other appropriations for transportation has resulted from the payment to various transcontinental lines which, prior to this year, had a bonded indebtedness owing the Government. Prior to the past year the Government has been engaged in allotting the charges for this method of transportation to the fund which those railroads were obligated to pay; and now that this indebtedness has been entirely paid, the Government has to make the appropriation.

Mr. DAWSON. I will add just a word. Two of the railroads are in the situation which the gentleman from Wisconsin has just stated. As it appears in a report on the naval bill, it is stated in there that this appropriation for transportation has increased.

Mr. FOSS. I mentioned that.

Mr. DAWSON. It has increased further by the fact that in July of the present year the Central Pacific and Western Pacific Railroad companies completed the payment of their bonded indebtedness to the Government. Therefore no further deduction was made from the bills of those companies remaining unpaid.

Mr. COX of Indiana. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Indiana [Mr. Cox] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend by striking out the following, beginning with the word "unless," line 4, page 7, and ending with the word "officer," in line 6, and insert the following: "unless a verified written statement by the parents, or either of them, or in case of their death, a verified written statement by the legal guardian, be first furnished to the recruiting officer," so as to read:

"*Provided*, That no part of this appropriation shall be expended in recruiting seamen, ordinary seamen, or apprentice seamen, unless a verified written statement by the parents, or either of them, or in case

of their death, a verified written statement by the legal guardian be first furnished to the recruiting officer, showing applicant to be of age required by naval regulations, which shall be presented with the application for enlistment."

Mr. FOSS. Mr. Chairman, I reserve a point of order.

Mr. COX of Indiana. Mr. Chairman, I want to compliment the committee for the language used in the limitation of its bill. The proviso found in the bill as reported by the committee is as follows:

Provided, That no part of this appropriation shall be expended in recruiting seamen, ordinary seamen, or apprentice seamen, unless a certificate of birth or written evidence, other than his own statement or statement of another based thereon, satisfactory to the recruiting officer, showing the applicant to be of age required by naval regulations, shall be presented with the application for enlistment.

To my mind, the committee evidently had some purpose in view when they placed this limitation in the bill. I do not know what was in the minds of the committee, but it strikes me that one thing that must evidently have been in their minds was the enormous, continued increase of men who leave the navy, or, in other words, become deserters.

It strikes me that the proof ought to be specific, that it ought to be certain, that the boy seeking to enter the navy is of proper age. I do not believe there is an employer of labor in the United States that is able to take from the father the services of his boy without the father's consent except the Government of the United States; and I believe that if the evidence had to be furnished to the recruiting officer from the parent, the father or mother, or in the event they were both dead, by the legally constituted guardian, that the boy was of proper military age, that would obviate a large amount of desertion that we now find in the navy of the United States.

I find reported all through this bill different sums of money appropriated for the purpose of looking after desertions, sums of money appropriated for the purpose of paying the expenses of courts-martial, and I believe that if the parents were consulted in the first instance by the son when he is proposing to join the navy, and takes his parents' advice, it would obviate a large number of these desertions.

Mr. FOSS. I think they are consulted; and very often the young man comes with his parents, and the recruiting officer very often goes out and talks with the parents.

Mr. COX of Indiana. It may be true, Mr. Chairman, that the parents are consulted very often in this matter, but what is the objection to requiring the parents to be consulted in the first instance, or what is the objection in permitting the parents themselves to furnish the written evidence, under their own oaths, that the son who is making an application to join the navy is of proper age?

Mr. EDWARDS of Georgia. Is there no such requirement in the bill now?

Mr. COX of Indiana. None whatever.

Mr. FOSS. It shows that the applicant must furnish a certificate of birth, or written statement other than his own statement, and it usually comes from the parent, or, in case the parents are not living, from his guardian.

Mr. COX of Indiana. Grant that is the usual way in which it comes. What objection can there be to making it specific to come from the parents in the first instance? It strikes me that the amendment I have offered will obviate, certainly reduce within limits, the objection to the provision as reported by the committee.

Mr. FOSS. How would you change it?

Mr. LOUDENSLAGER. Will the gentleman allow me to ask him a question?

Mr. COX of Indiana. Very well.

Mr. LOUDENSLAGER. How would you prepare the way for a bright young man who desires to enter the navy, but who had neither parent living, nor had he a guardian?

Mr. COX of Indiana. Under the common law in force in the United States—and I suppose the same law is in force in every State in the Union—at the age of 14 years a child is conclusively presumed to be able to choose his own guardian, and if he desires to enter the navy, he would have a perfect right to select the guardian and go into court and have the court appoint the person selected by him his guardian.

Mr. FOSS. At what cost?

Mr. COX of Indiana. I suppose at some trifling cost—not over two or three dollars.

Mr. BENNET of New York. I move to strike out the last two words, for the purpose of agreeing very largely with the gentleman from Indiana [Mr. COX] and of saying to the gentleman from New Jersey [Mr. LOUDENSLAGER] that, apparently, in the city of New York there is an industry of becoming guardians for boys who are under the legal age for the purpose of doing that which the law now provides, and getting boys into the navy by getting a guardian's certificate. I hope the amendment will pass, not so much because of the desertions, not because they are so large as compared with the army, but to cover these cases of boys of 14 and 15 years when they go down there and swear falsely they are over 18, and go to some of these people and get them appointed as guardian on false papers and have the consents signed. We men who come from the seacoast districts have hundreds of cases of a most heartrending character where there does not seem to be any way of getting these young men out of the service, and when we present proof that the boy is not of legal age, then they prosecute him, or they have the right to prosecute him, for fraudulent enlistment. I do not believe it ought to be the purpose of the Government to put a premium on this class of offense.

Mr. EDWARDS of Georgia. Is it not true that the greater proportions of desertions are among the youngest members of the navy? That is, among this very class that are under age?

Mr. BENNET of New York. Not necessarily the youngest men, but from the most recent recruits. I would not say as to age; but, of course, a boy of 14 or 15 years has not a great sense of responsibility as regards desertion.

Mr. DIXON. I will ask my colleague if it is not a fact that he has had a number of instances——

The CHAIRMAN. The time of the gentleman from Indiana has long since expired.

Mr. FOSS. Now, as to the point of order——

Mr. SHERLEY. I call for the regular order.

Mr. FOSS. I would ask the gentleman to explain one or two points in his amendment, if the gentleman from Kentucky will wait a minute.

Mr. SHERLEY. Well; but, Mr. Chairman, the "gentleman from Kentucky" is not willing to have an academic discussion when the point of order is still pending. Let us have it made and decided.

Mr. FOSS. If the gentleman will stay a moment, possibly we can come to some agreement by the insertion of words or changing them in the regular provision.

Mr. SHERLEY. I insist on the regular order.

The CHAIRMAN. Gentlemen will suspend. The Chair will hear the gentleman from Illinois on the point of order.

Mr. FOSS. I think it is a change of existing law.

The CHAIRMAN. It will be noticed that the amendment offered by the gentleman from Indiana is to a provision in the bill offered in the way of a limitation to the appropriation. If it is merely a limitation to the appropriation, then the amendment is in order. If it be more than a limitation of the appropriation, then it is merely a limitation on a provision already in the bill, subject to the point of order, and the point of order not being made, the amendment of the gentleman from Indiana the Chair holds to be in order.

Mr. DIXON. I will ask my colleague, Is it not a fact that in a number of instances parents have requested you to secure the discharge of their sons from the navy—minors, enlisted without their knowledge or consent?

Mr. COX of Indiana. Last winter I had two such instances coming up from my district. And I repeat, in my judgment, if the parents are consulted in the first instance, before their sons join, we will obviate a large amount of the desertions that are going on from the navy. The number of desertions from the navy is absolutely appalling. We have to-day 12,000 desertions from the navy out of a total of something like 40,000 enlisted men in the naval service.

To the average mind that indicates that there is something wrong, and that there should be some remedy brought about for the present existing evil. I imagine that if a boy consults his parents before he enlists in the navy, and takes the advice which he will receive from his father, he will look well to the true condition before he enlists in the United States Navy. Again, as I said a moment ago, the United States is the only employer I know anything about that can take from a parent the assistance of the child before he reaches the age of 21 years. The age at which a boy can now enlist in the navy, if I am correctly informed, under the statutes of the United States, is 18; and when the Government of the United States undertakes to take from the parent three years' labor of the child and give it to the Government of the United States, I insist that the parent should be first consulted before that is done.

The parent should have the first claim upon the child for the child's work and labor, and when the Government takes the parent's right away before it reaches 21, strong evidence should be presented to the recruiting officer, showing that the boy was of proper age to join the navy. My amendment makes it plain, certain, and positive just what must be done before the boy enlists to serve in the navy. It requires the verified affidavit of

one of the parents, or, if both parents be dead, then the affidavit of the child's legal guardian. The fact that application must be accompanied by an affidavit, sworn to before some officer authorized to administer oaths, would, in my judgment, meet the objections now going on as to the way and manner boys are permitted to enter the naval service.

I hope it will obtain.

Mr. FOSS. Mr. Chairman, I call for the reading of the amendment.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The amendment was again read.

Mr. OLCOTT. Mr. Chairman, I offer an amendment to the gentleman's amendment.

The CHAIRMAN. The gentleman from New York offers an amendment to the amendment, which the Clerk will report.

The Clerk read as follows:

After the word "unless," insert "a certificate of birth or."

Mr. OLCOTT. Mr. Chairman, that would provide that if a certificate of birth was produced, the other statement need not be; because, if a certificate of birth was produced there could be no possible question of the boy enlisting in the navy before he reached the age of 18. So, under the circumstances, it seems to me there can be no reason for getting the affidavit of the parent or guardian. I think the amendment of the gentleman from Indiana, with my amendment, is proper.

The CHAIRMAN. What is the gentleman's amendment?

Mr. OLCOTT. The amendment provides that if a certificate of birth can be produced, it shall not be necessary to obtain an affidavit from the parents.

The CHAIRMAN. The gentleman has not yet indicated what his amendment is.

Mr. OLCOTT. I beg the pardon of the Chairman. It is offered as an amendment to the amendment of the gentleman from Indiana, to insert after the word "unless" the words "a certificate of birth or."

The CHAIRMAN. And leave the rest of the amendment as it stands?

Mr. OLCOTT. And leave the rest of the amendment as it is.

Mr. SHERLEY. May we have the amendment reported as it will read if the two amendments are adopted?

The CHAIRMAN. If there be no objection, the Clerk will report the amendment as it would read with the amendment offered by the gentleman from New York.

The Clerk read as follows:

Provided, That no part of this appropriation shall be expended in recruiting seamen, ordinary seamen, or apprentice seamen unless a certificate of birth or a verified written statement by the parents, or either of them, or in case of their death a verified written statement by the legal guardian, be first furnished to the recruiting officer, showing the applicant to be of age required by the naval regulations, which shall be presented with the application for enlistment.

Mr. KEIFER. Mr. Chairman, I was not giving close attention, but I think this amendment, if agreed to, would apply to every enlisted man in the navy, and would require the furnishing of these documents as to all of them before you could expend any of the money. It looks as though it applied generally; not to the future, but to all who have been enlisted, many of whom have been in the navy for years.

Mr. COX of Indiana. I did not catch the gentleman's question.

Mr. KEIFER. Does not the amendment prohibit the use of the money appropriated unless it is first ascertained that there has been a proper certificate as to every enlisted man?

Mr. COX of Indiana. No; the amendment which I propose is that the application to join the navy must be accompanied by a verified statement of his parents, or one of them, or if they be both dead, then the verified affidavit of the legal guardian.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York to the amendment offered by the gentleman from Indiana.

The question was taken; and on a division (demanded by Mr. OLCOTT) there were 35 ayes and 34 noes.

So the amendment to the amendment was agreed to.

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from Indiana as amended by the gentleman from New York.

The question was taken, and the amendment as amended was agreed to.

The Clerk read as follows:

Naval Home, Philadelphia, Pa.: One superintendent of grounds, at $720; 1 steward, at $720; 1 store laborer, at $480; 1 matron, at $420; 1 beneficiaries' attendant, at $240; 1 chief cook, at $480; 1 assistant cook, at $360; 1 assistant cook, at $240; 1 chief laundress, at $192; 5 laundresses, at $168 each; 4 scrubbers, at $168 each; 1 head waitress, at $192; 8 waitresses, at $168 each; 1 kitchen servant, at $240; 8 laborers, at $240 each; 1 stable keeper and driver, at $360; 1 master at arms, at $480; 2 house corporals, at $300 each; 1 barber, at $360; 1 carpenter, at $845; 1 painter, at $845; 1 engineer for elevator and machinery, $720; 3 laborers, at $360 each; 3 laborers, at $300 each; total for employees, $15,250.

Mr. MACON. Mr. Chairman, I reserve a point of order against the provision, page 11, line 8, "1 store laborer at $480," and on page 12, lines 1 and 2, "1 engineer for elevator and machinery, $720."

Mr. FOSS. I will take the last one first. This simply increases the salary of this man $10 a month. They have heretofore had a master mechanic, and they have discontinued him, so to speak, and his duties are being performed by this engineer, and they desire to increase his pay $10 a month.

Mr. MACON. I thought it was the policy of the committee in this bill not to enumerate employees.

Mr. FOSS. This home is maintained and supported by the interest of the naval pension fund. It is made up of contributions from officers and men in the navy at 20 cents a month.

Mr. LOUDENSLAGER. It is the interest on prize money.

Mr. FOSS. Yes; interest on prize money goes into it, and every man in the navy has to contribute to it.

Mr. STAFFORD. Does the Government contribute anything in case there is a discrepancy?

Mr. FOSS. No.

Mr. LOUDENSLAGER. It is a home provided by the men and paid for by the interest on the prize money that is obtained, and they sort of manage it by a board themselves.

Mr. MACON. Mr. Chairman, in view of the statement, I do not insist on the point of order.

The CHAIRMAN. The point of order is withdrawn.

Mr. KELIHER. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The Clerk read as follows:

In all, for Naval Home, $78,151, which sum shall be paid out of the income from the naval pension fund: *Provided*, That for the performance of such additional services in and about the Naval Home as may be necessary the Secretary of the Navy is authorized to employ, on the recommendation of the governor, beneficiaries in said home, whose compensation shall be fixed by the Secretary and paid from the appropriation for the support of the home.

Mr. FOSTER of Vermont. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Insert on page 13, after line 4, the following:

"For badges and ribbons to be distributed by the Secretary of the Navy to officers and men now or formerly of the Volunteer and Regular Navy and Marine Corps who have participated in engagements and campaigns deemed worthy of such commemoration, $2,500."

Mr. LOUDENSLAGER. Mr. Chairman, I make a point of order against that. It is not germane to this paragraph.

Mr. FOSTER of Vermont. I will ask the gentleman to reserve his point of order.

Mr. LOUDENSLAGER. For how long?

Mr. FOSTER of Vermont. One minute. This amendment was prepared by the gentleman from Massachusetts [Mr. WEEKS]. He was obliged to leave the House half an hour ago and requested me to present it and to make further request that it be passed without prejudice until to-morrow. I ask unanimous consent that the amendment may be passed without prejudice until Mr. WEEKS returns.

Mr. LOUDENSLAGER. I have no objection to allowing the matter to stand without prejudice until to-morrow.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont? [After a pause.] The Chair hears none.

The Clerk read as follows:

Ordnance and ordnance stores: For procuring, producing, preserving, and handling ordnance material; for the armament of ships; for fuel, material, and labor to be used in the general work of the Ordnance Department; for furniture at naval magazines, torpedo stations, and proving ground; for maintenance of the proving ground and powder factory, and for target practice, and for pay of chemists, clerical, drafting, inspection, and messenger service in navy-yards, naval stations, and naval magazines: "*Provided*, That the sum to be paid out of this appropriation under the direction of the Secretary of the Navy for chemists, clerical, drafting, inspection, watchmen, and messenger service in navy-yards, naval stations, and naval magazines for the fiscal year ending June 30, 1910, shall not exceed $398,890.28." In all, $5,278,171.99: *Provided*, That no part of this appropriation shall be expended for the purchase of shells or projectiles except for shells or projectiles purchased in accordance with the terms and conditions of proposals submitted by the Secretary of the Navy to all of the manufacturers of shells and projectiles and upon bids received in accordance with the terms and requirements of such proposals. All shells and projectiles shall conform to the standard prescribed by the Secretary of the Navy.

Mr. COX of Indiana. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend by adding the following paragraph, after the word "Navy," line 6, page 14: "*Provided*, That no part of this appropriation shall be expended for the purchase of powder made, manufactured, or sold in violation of an act of Congress passed July 2, 1890, being an act entitled 'An act to protect trade and commerce against unlawful restraints of trade and monopolies,' and all amendments made thereto, which powder shall be purchased in accordance and with the conditions submitted by the Secretary of the Navy to all manufacturers, dealers, and sellers of powder, and upon bids received in accordance with the terms and requirements of such proposals as to carry into effect the limitations of this provision. All powder shall conform to the standard prescribed by the Secretary of the Navy: *Provided*, That the Secretary of the Navy shall receive no bid for the purchase of powder unless the bid is accompanied by an affidavit showing that the powder sought to be sold is not made, manufactured, or offered to be sold in violation of any law passed by Congress."

Mr. COX of Indiana. Mr. Chairman, the amendment which the clerk has just read is self-explanatory, and to my mind aims at a present existing evil, especially if the facts and information furnished us yesterday by the gentleman from Tennessee [Mr. GAINES] are true, and as appears in the RECORD of yesterday; and that these facts are true there is no doubt, in my mind, at least.

It is evident, from the information furnished, that the Government is paying by far too much for the powder it is now using. It is equally evident from that information that powder can be manufactured by the Government of the United States at a great deal cheaper price than it is being manufactured now by other manufacturers and sold to the Government of the United States. And if the Government can do it, why not private individuals?

It strikes me that when the Government of the United States is paying 70 cents a pound for its powder, and that this amount pays 40 per cent dividend on the investment, it is entirely too much—too large a profit to the men engaged in the manufacture of powder. In the statement contained in proposition 8, it is figured out that upon another basis it would pay an investment of 17½ per cent dividend. That would be sufficient to satisfy any ordinary manufacturer of powder who sells it to the Government. The amendment which I have submitted for the consideration of the committee proposes that no amount of money appropriated in this paragraph shall be used in the purchase of powder made, manufactured, or sold by any powder trust in the United States. It further provides that all bids for government powder shall be accompanied by sworn affidavits of the maker, manufacturer, or proposed seller of powder that he or they have not violated any of the laws of the United States in the making, selling, or manufacture of this powder. I believe the time has come when Congress should put some limitation upon these trusts when the proof is clear that they are selling their products to the Government at such enormous profits.

We are now, and for a great many years in the past have been, held up by the powder trust in the United States in the purchase of powder by the Government. It is the experience and observation of all who have had an opportunity to examine the situation that the Government never gets work performed for it as cheaply as private individuals, and when it is admitted upon the floor of this House that the Government is now, and for several years past has been, buying all of the powder it uses and consumes, both in its army and navy, from one concern, this to me is self-evident that the Government is at the mercy of this one institution. We can not get away from that proposition. No amount of argument or reasoning will let us get away from it, that the Government can manufacture powder a great deal cheaper than it is being manufactured now by this one powder trust and sold to the Government. Some attempt has been made to explain this proposition away upon different grounds, but all explanation has fallen far short of proof of this proposition.

Again, it is an historical fact, if not a political one, that the Government for quite a while past has waged a suit against this powder trust that is now manufacturing and selling all the powder to the Government which the Government uses and consumes. This presents an anomalous condition; the Government buying powder from a corporation which it now declares to be a trust in restraint of trade, and which it declares has entered into a combination and a conspiracy for the sole purpose of getting control of the powder factories in the United States, so that it may not only govern the law of supply and demand, but that it may be able to control the price of its product which it sells to the Government.

The Government has one powder factory of its own at Indianhead, Md., and this plant it has owned and operated for several years in the past. In a letter written from Indianhead, Md., August 2, 1902, Joseph Straus, lieutenant-commander, United States Navy, inspector of ordnance in charge, makes this statement:

The cost of manufacturing 1,000,000 pounds of powder at the Indianhead works during the fiscal year recently closed has been 47.7 cents per pound, exclusive of alcohol. Every item due to its manufacture is included in this cost; all raw materials, chemicals, laboratories, expenses, heat, light, power, care of grounds, buildings, etc., have been reckoned; also a charge for loss by fire, based upon the mean fire loss for the last six years.

Here is the statement of a positive fact coming from a man high up in naval circles who knows, or at least ought to know, what he is talking about. He makes the positive declaration that the Government is now manufacturing its powder at 47.7 cents per pound, exclusive of alcohol. The cost of the alcohol which enters into the manufacture of a pound of powder does not exceed 4 cents. This would make the complete total cost of manufacture of a pound of powder not to exceed 51.7 cents, and yet we find it to be a positive fact to-day that the Government is paying this trust not less than 67 cents a pound for every pound of powder which the Government buys from it. Upon this basis of the cost of manufacture of a pound of powder Lieutenant-Commander Straus makes this deduction. Upon the basis of 1,000,000 pounds of powder manufactured per annum, it will be seen that the price of 70 cents per pound yields a profit of $264,000, and this considers every possible charge except the pay of the officers connected with the financial administration of the enterprise.

Again, the same officer draws the following deductions from the cost of manufacturing a pound of powder by the Government and makes a comparison as to the probable cost there is to a private manufacturer manufacturing powder and selling it to the Government at the price of 70 cents per pound. He says:

The total investment at Indianhead will amount to about $650,000. On this basis the stockholders should receive a dividend of over 40 per cent on the capital invested if the powder is sold at 70 cents per pound. If it were sold at 55 cents per pound, this would yield 17.5 per cent profit on capital invested; and in case the orders were cut down during any one year to one-half, the profit should still be satisfactory.

Up to the time the Government began the manufacture of its own powder it was paying as high as $1 per pound for powder which it bought from this trust, but since the Government has begun the manufacture of powder the price, for some reason or other, has gradually dropped from $1 per pound to about 70 cents per pound, and as low as 67 cents per pound. Will anyone believe for a moment that this drop in the price of powder has been due to anything other than the fact that the Government of the United States has gone into the manufacture of powder itself?

As late as January 19, 1909, N. E. Mason, Chief of the Bureau of Ordnance, wrote the following letter to Representative GAINES of Tennessee:

I have to inform you that there are nine steps or links in the chain of manufacture of powder; some stronger than others—that is, capacity is greater; output, 1,000,000 pounds at weakest point. To double capacity—that is, to make output 2,000,000 pounds—$250,000 would be required, the powder plant and drying plant being the large items. Cost of powder, labor, and material alone, 43 cents per pound, year ending July 1, 1908; somewhat higher now because of increase in cost of alcohol.

Here, again, is a statement made by a man who surely knows what he is talking about, and he says the total cost of making a pound of powder, including labor and materials, amounts to only 43 cents, and yet gentlemen insist that they are justified in not voting to curb and control this trust by limiting the money here appropriated to the extent of refusing to let any part of this appropriation be paid for the purchase of powder manufactured by trusts.

The Government erected its powder plant, if I mistake not, in 1898. There was appropriated in this year for the Government Powder Factory, $93,700; in 1898, $250,000; in 1899, $1,000,000; in 1899, $25,000; in 1899, $1,500; in 1900, $500,000; in 1900, $4,400; in 1901, $500,000; in 1902, $500,000; in 1903, $500,000; in 1903, $52,000; in 1904, $500,000; in 1905, $500,000; in 1906, $500,000; in 1907, $500,000.

The price of powder to the Government since the year 1897 has ranged as follows: 1897, 300,000 pounds, at $1 per pound; 1898, 2,543,000 pounds, at 80 cents per pound; 1899, 350,000 pounds, at 80 cents per pound; 1900, 695,000 pounds, at 80 cents per pound; 1901, 1,401,000 pounds, at 74 cents per pound; 1902, 1,551,000 pounds, at 74 cents per pound; 1903, 2,268,000 pounds, at 74 cents per pound; 1904, 4,642,710 pounds, at 74 cents per pound; 1905, 4,492,000 pounds, at 74 cents per pound; 1906, 2,025,000 pounds at 69 to 74 cents per pound; 1907, 2,375,000 pounds, at 67 to 69 cents per pound.

It will be observed that the price dropped from 1897 to 1907 from $1 per pound to as low as 67 cents per pound. It would

be useless and idle to ask the cause of this rapid decline in the cost of powder. It can be assigned to nothing other than the fact that the Government has gone into the manufacture of powder, and has, to a certain extent, forced the price of powder down. Gentlemen may talk as long and as loud as they please, but it is a notorious fact that the Government of the United States is to-day within the grasp of the worst trust that ever fastened itself upon the American people; and, if the Government, through its legal department, is unable to cope with this monster, it is time that we, the Representatives of America, should undertake to clip its wings by providing that no part of the money herein appropriated shall be expended for the purchase of powder made, manufactured, or sold by any trust engaged in unlawful restraint of trade in the United States.

The CHAIRMAN. Does the gentleman from Illinois insist on his point of order?

Mr. FOSS. Mr. Chairman, I desire simply to state that the price fixed this year is 67 cents instead of 70 cents; that this price is fixed by the joint army and navy board, who investigated the cost to the Government of the manufacture of powder; and I may say here that I have what has been regarded as a confidential statement by the board, in which they make a statement of the actual cost at the navy powder factory per pound of powder for the year 1907, including depreciation of plant, one-seventh of the fire losses. The plant has been in operation for seven years. This price is made exclusive of alcohol and such administrative expenses as the salaries of the officers on duty at the plant and the salaries of higher officials and other clerical force.

It is figured at 45 cents. Then the alcohol which enters into the manufacture of the powder is nearly 4 cents and the administrative cost is figured at nearly 3 cents. Then there are the taxes and the interest on the capital and the rejections, which, altogether, make up a total of 63.48 cents. I want to say that figure of 45 cents is the average from year to year, it being slightly less in 1908, due to the efficiency of the acid plant at Indianhead. On the other hand, the price of alcohol has recently increased very materially, which about offsets the savings made by the acid plant. The figure of 45 cents is still about as close as can be arrived at for the purpose in hand. That is the basis upon which they figure, and to that they add these other things which I have already enumerated. But—and I wish the gentleman's attention on this—this 63.48 cents, as computed by them, does not include the following items, for which no satisfactory estimates can be obtained. First, there are the freight charges. The companies are required to deliver f. o. b. any point in the United States. Second, it does not cover experimental work. Third, it does not cover allowances for extra hazardous risks and pensions to old or disabled employees. Fourth, risk of expensive plant becoming obsolete by changes in composition of powder or in methods of manufacture. When the change to smokeless powder was made, in 1899, a large amount of machinery suitable only for manufacturing brown powder, and which had recently been installed at a considerable expense, was rendered useless. Fifth, of the four private plants, one—that at Santa Cruz, Cal.—is lying idle and the other three are working at one-third, or less, of their full capacity. Since the overhead charges are virtually the same when working at full capacity, the output of a plant working at a reduced capacity is very much more expensive under these conditions. Sixth. No estimate of profit in addition to the 6 per cent on the capital invested has been made.

Even if a plant is worked to its full capacity, it would appear that 67 cents per pound does not provide as large a profit as is usually made in the manufacture of ordinary commercial articles. Since there is no prospect in the increase of the orders, the price of 67 cents is probably too low than too high. It is manifestly to the interest of the Government to have maintained as large a powder-manufacturing capacity as possible as a reserve in the event of war, in which case we will undoubtedly need all the powder that we can get. The bureau therefore desires not to increase the present output of the factory at Indianhead, although it recommends that its capacity be increased.

And I wish to say to the gentleman that this has been regarded as a confidential report, but I have asked permission to use it here to-day.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. SHERLEY. Mr. Chairman, I ask unanimous consent that the gentleman may have five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky? [After a pause.] The Chair hears none.

Mr. FOSS. The board, after full investigation into this subject of the powder manufactured by the Government, believe, and Admiral Mason states in his hearing, that the Government is paying a low price for powder to-day; that the price is fixed not by the powder trust, but it is fixed by the board, and it was with great reluctance that the powder trust has complied with it——

Mr. FITZGERALD. Why did not they refuse to do so if they were losing money?

Mr. FOSS (continuing). And one of their plants to-day is not in use.

Mr. COX of Indiana. Will the gentleman yield for a question?

Mr. FOSS. Yes.

Mr. COX of Indiana. Were the figures which the gentleman has just given based upon the cost of manufacturing a pound of powder at the government works?

Mr. FOSS. At the government works at Indianhead, given to me by the Chief of the Bureau of Ordnance, whose business and whose duty it is to know these things.

Mr. COX of Indiana. I believe the statement now is that it costs 63 cents. Is that correct, or 67? I did not quite catch that.

Mr. FOSS. Forty-five cents is the actual cost, but adding alcohol, administration, taxes, rejections, and interest on the capital at 6 per cent, you get 63.48.

Mr. COX of Indiana. Can the gentleman explain or tell the House why the cost of the manufacture of a pound of powder at its government works has greatly increased in the last two years, conceding that statement which I read a moment ago, given out by the Naval Proving Board, August 2, 1906, is true, wherein it states that the actual cost of manufacturing a pound of powder at the Indianhead works was 47.7?

Mr. FOSS. It does not include those items which I have mentioned.

Mr. SHERLEY. Now, will the gentleman answer this inquiry? A part of the letter which has been read states that the cost, counting in the material and labor, is about 45 cents.

Mr. FOSS. Yes.

Mr. SHERLEY. Then an estimate is made, figuring in various other matters such as insurance, interest on investment, and so forth, that the cost would reach a total——

Mr. FOSS. And the cost of alcohol.

Mr. SHERLEY. I am not undertaking to enumerate the items—that it would total 63½ cents. Now, what I desire to know is this: Is the cost of these additional items the result of the independent judgment of naval officers, or are those items based upon information given by the powder manufacturers as to what similar work costs there?

Mr. FOSS. It is based, I suppose, on what they regard to be a fair estimate.

Mr. SHERLEY. Is it not a fact what they have done is to take from the powder-manufacturing people a percentage figured on what those very items would cost them, and on that they assume that by adding that to the naval price it would make 63½ cents?

Mr. FOSS. No; let me give one of the items here. Here is alcohol, and that adds 4 cents to the 45. Now, that is something upon which they make the price in the open market, and during the last year the price has gone up.

Mr. SHERLEY. I understand you have got 49 cents; now where do you get the other 14½ cents?

Mr. FOSS. Then they figure interest on the capital invested in the Indianhead plant, which was $1,500,000, and they figure that at 6 per cent, and that adds again to the cost 9 cents.

Mr. HITCHCOCK. Mr. Chairman, I would like to ask the gentleman a question——

Mr. FOSS. Then, in addition to that, they figure on rejections on some of this powder which is not up to standard, which amounts, as they state here, to 5.23 per cent of the product. That is the average, and that adds 2½ cents per pound to the cost of powder. That is the average. Then add 2½ cents to the cost per pound of the powder.

Mr. SHERLEY. That has not been anything like the average of rejections in either the army or navy plants.

Mr. FOSS. Those objections are based on actual rejections.

Mr. SHERLEY. I understand that, but that does not reach the proposition. The proposition, I suggest, is this—that the rejections in the government plants have not presented anything like the per cent presented by the powder people. Now, whether that is a justifiable item of cost at that rate is a question.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. Foss] has expired.

Mr. FOSS. These are the average rejections. They are figuring the cost of powder now on the cost of manufacture down at Indianhead.

Mr. SHERLEY. Of course the gentleman realizes that it is impossible for us to follow a detailed statement, out of which the gentleman has read only a portion. Now, I suggest, in order to handle this matter and not handicap the department or put a false price upon the powder, to let this letter, which the gentleman states is confidential, go into the RECORD, and allow these items to go over without prejudice until in the morning. Then, if the statement is as conclusive as the gentleman seems to think, I for one will not make any attempt to lower the price.

Mr. FOSS. I have not any objection to passing it over until morning.

Mr. GAINES of Tennessee. Here is the government board. Here is a letter that I put in the RECORD last evening, giving a long statement from Secretary Metcalf.

Mr. SHERLEY. I will say to the gentleman that all of this information, and even more, will be printed in a few days in the hearings on the fortification bill. We have not yet received it.

Mr. FOSS. If there be no objection, I will put it in the RECORD, and will suggest that this matter go over until to-morrow.

Mr. GAINES of Tennessee. Mr. Chairman, I want to read an important letter on this subject.

The CHAIRMAN. The gentleman from Illinois [Mr. Foss] asks unanimous consent to pass the amendment without prejudice and to print a report, from which he has read, in the RECORD. Is there objection?

There was no objection.

The report is as follows:

NOTES ON ESTIMATES ON PRICE OF SMOKELESS POWDER.

The price on powder has for several years been fixed by the Government upon recommendations made by a board of army and naval officers.

In arriving at its recommendations the board has based its estimates principally upon data obtained from the Naval Powder Factory at Indianhead, Md., which plant has been in operation for seven or eight years, and has undoubtedly an economical output. The capital necessary for a plant of similar capacity, including site, plant, material on hand, which includes raw material and powder in dry houses, is $1,500,000.

Actual cost at Navy Powder Factory, per pound of powder, for the year 1907, including depreciation of plant, one-seventh of the fire losses the seven years the plant has been in operation, but exclusive of alcohol and such administrative expenses as the salaries of officers on duty at the plant and the salaries of higher officials and their clerical force	$0.4500
Alcohol (seven-tenths of a pound of alcohol per pound of powder)	.0385
Administrative cost	.0298
Taxes	.0012
Interest on capital ($1,500,000, at 6 per cent)	.0900
Rejections (5.23 per cent of product)	.0253
Total	.6348

Item 1 is made to parallel, as far as possible, the factory cost at a private plant working at full capacity twenty-four hours per day. The figure 45 cents has varied from year to year, being slightly less in 1908, due to the efficiency of the acid plant at Indianhead. On the other hand, the price of alcohol has recently increased very materially, which about offsets the saving made by the acid plant. The figure 45 cents is still about as close as can be arrived at for the purpose in hand.

Item 3 is the only figure given by the powder companies, and necessarily the similar cost to the Government is very much less than this.

The 63.48 cents as computed above does not include the following items, for which no satisfactory estimates can be obtained:

"1. Freight charges. The companies are required to deliver f. o. b. any point in the United States.

"2. Experimental work.

"3. Allowance for extra hazardous risk and pensions to old or disabled employees.

"4. Risk of expensive plants becoming obsolete by changes in composition of powder or in methods of manufacture. (When the change to smokeless powder was made in 1899, a large amount of machinery suitable only for manufacturing brown powder, and which had recently been installed at considerable expense, was rendered useless.)

"5. Of the four private plants, one, that at Santa Cruz, Cal., is lying idle, and the other three are working at one-third or less of their full capacity. Since the overhead charges are virtually the same when working at full capacity, the output of a plant working at a reduced capacity is very much more expensive under those conditions. The Du Ponts are keeping the plant at Santa Cruz in condition for manufacturing powder at the request of the Government.

"6. No estimate of profit in addition to the 6 per cent on the capital invested has been made."

Even if a plant is worked to its full capacity it would appear that 67 cents per pound does not provide as large a profit as is usually made in the manufacture of ordinary commercial articles. Since there is no prospect of an increase in the orders, the price of 67 cents is probably too low than too high. It is manifestly to the interest of the Government to have maintained as large a powder manufacturing capacity as possible as a reserve in the event of war, in which case we will undoubtedly need all the powder that we can get. The bureau therefore desires not to increase the present output of the factory at Indianhead, although it recommends that its capacity be increased.

Mr. GAINES of Tennessee. I want to read this letter now, to go in the RECORD by the side of that one. I move to strike out the last word for that purpose. This morning I telephoned down to Indianhead——

The CHAIRMAN. The gentleman can not move to strike out the last word on the motion that we pass the amendment until to-morrow.

Mr. GAINES of Tennessee. Then, Mr. Chairman, I ask unanimous consent to read this letter.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. GAINES of Tennessee. I telephoned down to the officer in charge of the government powder factory at Indianhead. I do not know where that place is, but somewhere down the river. I wanted to go to the fountain head of the proposition. We have been for years getting a great deal from the Navy Department, and so forth, and it did not seem to satisfy everybody. So I telephoned to get a definite reply from the officer in charge. I made a memorandum of the substance of our conversation, which you will see on these sheets of paper which I hold in my hand. Later in the day I was called up by the Navy Department and was telephoned the letter which I am about to read, and was further informed that it would be sent to me by hand. It has been received, and reads as follows:

DEPARTMENT OF THE NAVY, BUREAU OF ORDNANCE,
Washington, D. C., January 20, 1909.

SIR: Referring to your telephone message to the inspector of ordnance in charge at Indianhead, Md., concerning the manufacture of powder, etc.—

1. I have to inform you that he has telephoned the following answer:

"The powder factory is run at practically full capacity—about one and one-fourth million pounds a year.

"There are nine steps or links in the chain of manufacture; some links stronger than others; that is, capacity is greater; output, 1,000,000 pounds at weakest point. To double capacity—that is, to make output 2,000,000 pounds—$250,000 would be required, the power plant and drying plant being the large items. Cost of powder, labor, and material alone, 43 cents per pound, year ending July 1, 1908; somewhat higher now because of increase in cost of alcohol."

2. The Navy Department's orders require that all communications of this nature should be forwarded through the department, and this is sent you with the authority of the Acting Secretary of the Navy and also telephoned you.

Respectfully,

N. E. MASON,
Chief of Bureau of Ordnance.

Hon. JOHN WESLEY GAINES, M. C.,
House of Representatives, Washington, D. C.

Now, here is a letter the department sends me, telling me the capacity of this plant is 1,250,000 pounds, and $250,000 appropriation would make it a 2,000,000-pound plant. Now, will any man here say that that is a war-capacity plant, when we are now buying 2,000,000 pounds and making 1,000,000 pounds and need it all in peace? Why not increase its "capacity" to the war standard, if we make no powder there, in peace? It will be ready in time of war. Two hundred and fifty thousand dollars will double its capacity, this letter tells us.

Now, Mr. Chairman, here is what he says: The cost of the "labor and material" alone "is 43 cents for the year ending July 1, 1908," but "somewhat higher because of the higher cost of alcohol." Lieutenant Jackson also informed me that we send very highly paid powder inspectors, four or five, to these private concerns—one of which is the Powder trust—to examine the powder, and that they were each, as I understood, paid five or six thousand dollars, and that we had at the government powder plant but one inspector, a naval officer, and some subordinates to inspect. Furnishing these highly paid inspectors at private manufactories is a practice we pursue that we may get good powder, and we did not get it all the time during the Spanish war. Again, Secretary Long, in his report, November, 1897, says:

The question of always having at hand a satisfactory source of supply for powder has received much consideration from the bureau, and it suggests that in view of the lack of sufficient competition among private manufacturers the Government should establish a powder factory of its own of moderate capacity.

[Report of Secretary of the Navy, 1898.]

SMOKELESS POWDER.

Smokeless powder is a necessity, not only on account of the absence of smoke, but because of the greater velocities obtained by its use and the freedom from residue, which facilitates rapid firing. While a satisfactory smokeless powder has been adopted and is manufactured in considerable quantities, it was, owing to lack of time and lack of facility for manufacturing on a large scale, impossible to introduce it generally into the navy during the recent war. Nevertheless, several vessels were given a complete outfit, and large quantities were distributed. Steps have been taken to give all vessels hereafter fitted out a complete supply, and it is proposed to accumulate a large amount. Congress at its last session appropriated a sum of money for the erection of a government factory for the manufacture of smokeless powder, and plans therefor have been prepared, land has been cleared at Indianhead, Md., and the work of construction is now in progress.

Immediately after the close of the war with Spain the purchase of brown powder was discontinued, and the manufacturers were directed to turn their attention exclusively to the manufacture of smokeless powder, so far as their orders for the navy were concerned. They

have made commendable progress, and are turning out a satisfactory product in considerable quantities. It is proposed to supply all new ships with smokeless powder, and the powder for the *Kearsage, Kentucky,* and *Alabama* is now ready for them. The older vessels will also be supplied as rapidly as possible.

[Reports of the Navy Department, 1899.]

The government powder factory at Indianhead is progressing favorably and will be completed in a few months. Unavoidable delays in obtaining materials have retarded its progress to some extent, and it is preferable to do good rather than hasty work. It is neither expected nor desired to enter into competition at these works with private manufacturers, except as to quality, it being the policy of the department to foster the commercial industry, upon which the country must largely draw its supply.

[Reports of the Navy Department, 1900.]

SMOKELESS POWDER.

Manufacturers of smokeless powder are now experiencing little difficulty in supplying powder of excellent quality which meets the required climatic, physical, and ballistic tests. Three of the battle ships and one cruiser have already received an outfit of smokeless powder, and other vessels will be supplied as they are commissioned.

The manufacture of smokeless powder by the Government has been successfully carried on during the past year.

I have asked the librarian here to run through the statutes and see how much money we have appropriated for this factory, and he hands me the following tabulation:

1898, 30 Statutes, page 372, factory	$93,700
1898, 30 Statutes, page 372, smokeless powder	250,000
1899, 30 Statutes, page 1027, smokeless powder	1,000,000
1899, 30 Statutes, page 1027, factory	25,000
1899, 30 Statutes, page 1252, 401 investigations by chemist	1,500
1900, 31 Statutes, page 687, smokeless powder	500,000
1900, 31 Statutes, page 688, factory	4,400
1901, 31 Statutes, page 1111, smokeless powder	500,000
1902, 32 Statutes, page 666, smokeless powder	500,000
1903, 32 Statutes, page 1180, smokeless powder	500,000
1903, 32 Statutes, page 1180, enlarging factory	52,000
1904, 33 Statutes, page 327, smokeless powder	500,000
1905, 33 Statutes, page 1095	500,000
1906, 34 Statutes, page 464, erecting and equipment	165,000
1906, 34 Statutes, page 558	500,000
1907, 34 Statutes, page 1180	500,000

I will here insert in the RECORD the letter from Secretary Metcalf and the appendices thereto that I obtained permission to insert in the RECORD yesterday:

NAVY DEPARTMENT,
Washington, February 7, 1908.

SIR: Referring to your letter of January 31, 1908, requesting certain information regarding the cost of powder purchased from private firms, etc.—

1. From 1893 until 1899, during which years practically all the brown powder ever supplied the navy was obtained, 5,953,118 pounds of brown powder were purchased from private manufacturers, which firms were either a part of the Du Pont Powder Company or probably had working agreements with this firm. The price of this powder fluctuated slightly, but the average price throughout these years was 32 cents per pound. The Government manufactured during these years no brown powder whatever.

2. In December, 1898, all outstanding orders for brown powder were canceled, and since then only smokeless powder has been manufactured for cannon. The amounts purchased are as follows:

1897. 300,000 pounds, at $1 per pound.
1898. 2,543,500 pounds, at 80 cents per pound.
1899. 350,000 pounds, at 80 cents per pound.
1900. 695,000 pounds, at 80 cents per pound.
1901. 1,401,000 pounds, at 74 cents per pound.
1902. 1,551,000 pounds, at 74 cents per pound.
1903. 2,268,000 pounds, at 74 cents per pound.
1904. 4,642,710 pounds, at 74 cents per pound.
1905. 4,492,000 pounds, at 74 cents per pound.
1906. 2,025,000 pounds, at 69 cents to 74 cents per pound.
1907. 2,375,000 pounds, at 67 cents to 69 cents per pound.

The above is obtained from the requisitions made in the Bureau of Ordnance during the calendar years given.

3. Up to date about 6,500,000 pounds of smokeless powder have been manufactured at the Government Powder Factory at Indianhead, Md. The accompanying correspondence gives in detail the cost of this powder during the latter years. Necessarily the cost was much higher in the early stages of manufacture.

4. The price paid for the first 200,000 pounds of smokeless powder, purchased in June, 1897, was $1 per pound, plus the alcohol. In October, 1897, at the instance of the department, this price was reduced to 80 cents per pound, which price continued until the beginning of the year 1901, when it was again reduced to 70 cents per pound, plus the alcohol. This reduction was made in view of estimates as to the cost of manufacture at the Government Powder Factory. This price of 70 cents per pound, alcohol furnished by the Government, which meant an actual cost of about 74 cents per pound, held until the joint army and navy board on smokeless powder, convened by the Secretaries of War and of the Navy in September, 1906, recommended the price of 69 cents per pound, manufacturers to furnish their own alcohol. For powder purchased by the army and navy in excess of 4,000,000 pounds a year the price was to have been 65 cents per pound. In October, 1907, acting upon the recommendation of the joint army and navy board on smokeless powder, the Secretaries of War and of the Navy again reduced the price to 67 cents per pound. The manufacturers now claim that this reduction is excessive, and it is not likely that it can be further reduced, at the present stage of manufacture, without undue fairness to the powder companies.

5. There are being forwarded copies of certain correspondence upon this subject, which it is requested be returned to the Navy Department, Bureau of Ordnance, when you have no further use for them. Also, information can be obtained on pages 255 and 256 of the "Hearings" before the House Committee on Naval Appropriations of 1907; on pages 41 to 43, and page 81 (Appendix C) "Hearings" of 1908; and in the "Hearings" of 1909. Mr. J. A. Haskell, vice-president of the Du Pont Powder Companies, was before the subcommittee of the House Committee on Appropriations on January 24, 1907, and his testimony can be found in the "Hearings" for that date.

6. Referring to the second paragraph: The establishment of the Government Powder Factory was recommended by the department in its Annual Report of 1898, and an appropriation for its establishment was made the same year. Since it has been completed it has run to the full extent of its capacity, working twenty-four hours a day, and has produced about 6,500,000 pounds of powder. In addition to this work the laboratory, which forms a part of the factory, has conducted all stability tests and chemical examinations of the samples selected from the lots of private manufacturers in the natural course of inspections.

7. Referring to the last paragraph in your letter, Congress passed, in the latter part of February, 1907, public resolution No. 15, directing the Secretary of Commerce and Labor to investigate and report to Congress concerning existing patents granted to officers and employees in certain cases. Full details of the information required under this resolution have been compiled and forwarded to the Department of Commerce and Labor. It is understood, however, that it has not yet been published, or at least not issued.

Respectfully, V. H. METCALF, *Secretary.*

Hon. JOHN W. GAINES,
House of Representatives, Washington, D. C.

WILMINGTON, DEL., *August 27, 1906.*

AUSTIN M. KNIGHT, Commander, U. S. Navy,
President Joint Army and Navy Board on Smokeless Powder Specifications, Washington, D. C.

DEAR SIR: Complying with your request that we give you our reasons for opposing any reduction in the price now paid by the Government for smokeless powder, we submit the following discussion:

In opening this discussion we desire to say that, in our judgment, the price paid for the powder is far less important than its quality, and that at the present time, with the processes of manufacture and even the composition of the powder in a more or less experimental and uncertain condition, an effort to reduce the price is likely to be false economy. With the army and navy it should always be the aim to have the best possible powder regardless of the cost. The desire should be to give an adequate price and to expect a constant improvement in the article. In order to produce a superior article we must be allowed a reasonable and fair margin of profit so that we may be able to purchase the best materials, employ the best skilled labor, and be allowed to work and rework the material until the desired result is obtained. If we must stop short of that because of price, it is easy to determine what the natural result will be—either loss on our part or an inferior powder. We have spared no expense in our efforts to improve our product, and we should receive an adequate compensation.

At the beginning, when the price was fixed at $1 per pound, the manufacturers had little knowledge of the subject and their plants were not suited to economical production. Before experience had shown us how to make a profit, the Government reduced the price to 80 cents a pound, and again to 70 cents, while we were making powder at a loss or with no profit. It is only within the last three years that a profit has been made. It would be a great injustice to the companies who have continued under these circumstances to produce a good powder, and who have spared no expense to improve it, to insist now that we must submit to another reduction, under more rigid specifications, before we have recouped the losses sustained during the earlier periods.

We are to-day selling the Government a much better powder than we sell the general trade where we have active competition. We are paid by the Government for a superior powder to that used by the commercial trade only 70 cents per pound, while the trade is paying 80 to 85 cents.

The Government has a system of inspection that grows daily more rigid, to which inspection we do not object, but which tends to increase the cost of production. The bureaus have just adopted new specifications which are more exacting, and to which they have added new and untried tests, which will probably add to the number of rejections. These specifications undertake to control each step of the processes to be used, to specify raw materials, number of washings, their duration, etc., and in the end we are still held responsible for the results.

In arriving at the cost of powder manufactured by the Government its experts lose sight of many items of expense which the Government pays through other channels, as salaries of officers, technical men, bookkeepers, clerks, traveling expenses, etc. The Government charges some of these items to other accounts and overlooks them in estimating the cost of manufacture of powder. Upon examination of our books we find that the following result would be obtained by taking what we are informed is the cost of powder at Indianhead on the manufacture of 1,002,000 pounds:

We find that during the past year of our operations the ratio of rejections to the amount of powder manufactured and delivered to the Government was 5.23 per cent. If from the manufacture of powder at Indianhead there be deducted the same percentage for rejections, the result would be that instead of delivering 1,002,000 pounds of powder Indianhead would produce 949,000 pounds of acceptable powder and the cost per pound would be increased from 47.45 cents (their cost of powder manufactured exclusive of alcohol) to 49.98 cents, and their cost of 54.63 cents (including alcohol) would be increased to 57.83 cents. If to this there be added the amounts paid by our company which have not been taken into consideration by the Government in their estimate of cost—mill superintendence, 1.96 cents per pound of powder manufactured; administrative cost, 2.98 cents per pound of powder manufactured; taxes, 0.12 cent per pound of powder manufactured; interest on investment, 7.16 cents per pound of powder manufactured—then the total cost would be 62.20 cents, exclusive of alcohol, or 60.85, including alcohol. This showing clearly demonstrates the fact that the only profit that we could obtain in the manufacture of powder at 70 cents per pound (and alcohol furnished by us) would be brought about by a more economical expenditure of labor in factory operations, because it is beyond dispute that the Government is paying approximately the same prices for cotton, acids, and other raw materials as we are.

Progress in the manufacture of powder sometimes causes the abandonment of whole plants, as was the case when the change from brown prismatic to pyrocellulose powder was made. This company had, at large expense, equipped two plants for the Government's use during the Spanish war, which were utilized for a short time to manufacture the powder. Experience in that war taught our Government officials that they did not want to continue the use of brown prismatic powder. The change to smokeless powder was made, and the plants became useless. The Government is at the present time considering and making extensive experiments with a new powder, which, if adopted for the service,

will in a large measure destroy the value of all the present smokeless-powder plants. When these facts are considered, it should be easy to perceive the injustice which would be done us by any reduction in the price now paid.

In considering the price of powder the board should keep in mind the amount of the contracts to be given. In our judgment the price might well be on a sliding scale. If the plants are to run on a single-shift basis, then it naturally costs more to make the powder. If the Government should again be in position to give orders for a sufficient amount of powder to run the plants continuously, night and day, as in the past, it might then be a better time to bring up the question of a reduction in price; but consider the present circumstances.

During 1904 and 1905 the Government gave us sufficient orders to warrant operating our plants night and day. In order that we might be in a position to do this, a very large expenditure of money was necessary in increasing our power plants, building additional powder dry houses, magazines, and providing costly machinery. We were, furthermore, led to hope that even larger orders for powder were in prospect, because the necessity was recognized for a large surplus of powder to be on hand in case of emergency. At this same time a joint army and navy board, appointed for the purpose, conferred with us in regard to our ability to make a large extension of our plants so as to be ready for emergency in case of war. While we were engaged in making the plans called for by this board we were informed that our output would have to be reduced at once to less than 40 per cent of what we were making on the double-shift basis. We have been operating for the last eight months on this limited output at greatly increased expense, and the costly extensions to our plants are rendered unnecessary and useless.

We would further call the board's attention to the fact that the policy of this company has always been, regardless of expense, to improve the powder by adopting every suggestion made by the Government. For instance, in the Government's efforts to standardize the process of manufacture of powder we have been called upon, at large expense, to change our plants to insure a uniform process of manufacture. In this connection we have recognized the great importance of pure water in the manufacture of powder, and although the water supplies of two different plants had been used for upward of five years with satisfactory results, we realized that improvements in the product would result from corresponding improvements in the water supply, and we have recently engaged, of our own volition, to expend several hundred thousand dollars in order to obtain additional and better supplies of water. This expenditure will result in an improvement in the powder and a corresponding benefit to the Government.

A very important item in the cost is the rejection of powder by the Government. It may be argued that we should not produce a powder that would not meet the requirements. The art of powder making has not yet reached the point where rejections are not to be expected. Furthermore, add to this the fact that the Government is constantly changing the specifications, insisting upon making additional tests, some of which are purely empirical in their nature, so that their influence and result can not be foreseen. The chances of rejection are thus vastly increased, and should be a large item in the fixing of the price of powder.

The manufacture of powder is a hazardous business, far beyond the conception of inexperienced men. The danger of fire and explosion, which may destroy valuable plants, is great, and greater still is the cost of life.

We may have touched on many things in this letter which you will consider irrelevant in fixing a just selling price for powder. We believe that all these factors have an important bearing on the subject, and each must be given its due weight.

To conclude our arguments, we may note—

First. The necessity of your having the very best powder which can be made. Your ships and your men demand it. This can not be had if you put the price too low.

Second. The painstaking and careful attention which we have given to the improvement of the powder, the money which we have risked in our experiments to develop it, and the capital which we are risking to-day in our efforts to produce for you a new and better powder are all worthy of compensation, and the Government should consider its own interests by encouraging us.

Third. During the experimental stage of the manufacture of smokeless powder, which continued until the last three years, we realized little or no profit. It is discouraging to think that such a condition may continue. Progress in the production of powder is the most expensive item to be considered, for it means constant expenditure of money, which rarely develops value, and when it does produce something the result means entire abandonment of old methods. To illustrate, you are to-day experimenting with a powder which has already cost us several hundred thousand dollars. If the experiment is a failure, the money invested is lost. On the other hand, if it succeeds, our present plants are, in a large measure, rendered valueless. We recognize the importance and value of the initial steps taken by the Government in developing the present powder, and the work done in the Government laboratories. It is a fact, however, that the manufacture would not have reached the present standard had it not been for the very large expenditure of money made by us in experiments and in designing and perfecting the necessary machinery. We have freely given to the Government the benefit of these experiences for use at its own plants. We are not desirous of taking to ourselves an undue credit for this development, but we believe that the bureaus will agree with us that the art of manufacture would not have reached the present improved condition had we not undertaken the work, for the reason that Congress has always failed to appropriate sufficient funds to enable the Indianhead plant to do it.

Fourth. We are selling to the Government to-day a better powder, made under rigid inspection and subject to rejection, for a less price than we are paid by the commercial trade, which takes powder made without specifications or inspection, and in which we have constant, wide-awake, active competition. This in itself is sufficient proof that the Government is buying its powder at a fair and just price.

Fifth. The Government, by its own experience at Indianhead, is well aware of the cost of making powder. If to this cost there be added a fair margin to correspond to the items which we have enumerated and to the losses which we must allow for, we feel sure that it will be shown that the present price is not unreasonable, but is a just and fair price, made necessary by the expensive methods and requirements of manufacture and rigid inspection and tests to which the powder is subjected.

This company has a record for the past one hundred years of always holding its best intellect, its money, and its plants wholly at the service of the Government in all times of need and of treating the Government fairly and honestly in all its dealings, and we do not deem it necessary that we should give additional proof now of our willingness to do the same in the future.

Yours, very truly,

E. I. DU PONT COMPANY.
By E. G. BUCKNER.

Summary of expenditures for the production of powder for the past year at Indianhead, Md.

Amount actually expended during the year	$454,790.64
Machinery written off	13,829.10
To the last item we should add, in order to bring the item of "Machinery depreciation" up to 10 per cent, as was done last year	10,991.83
Fire losses, one-seventh of the total	6,952.46
Various items, including a share of office and laboratory force, watchmen, railroad, and other repairs not counted into the cost of powder in invoicing it	13,812.66
5 per cent depreciation on buildings	31,180.65
Total	531,557.34
Dividing by 1,047,063, product for the year, the cost per pound is	.5077
Deduct the cost of alcohol expended per pound	.0694
Cost of the powder without alcohol per pound	.4383

In comparing this with the cost during the past fiscal year, which was 47.7 cents, we find that it has been cheapened 3.6 cents; this is accounted for to the extent of 2.4 cents per pound by the fact that the cost of cotton per pound of powder in 1905–6 was 7.21 cents, and in 1906–7, 4.82 cents, the reduction being due to the use of the cheaper Tennessee fiber. The remaining 1.2 cents is accounted for in the fact that the fixed charges, amounting to some $77,000, plus a considerable share of the labor, are not increased with the increased output.

2. The cotton account of last year included the use of 10,609 pounds of cotton from the torpedo station at .0885 cent per pound; 171,900 pounds of Salomon at .0925, and 610,977 pounds of Tennessee at .055, making an average price of .06356 per pound. The present price of Tennessee fiber is .055, and we are using this material to the exclusion of all others. On a yield of 1.37 the cost of powder will be still lower this year by six-tenths of 1 cent per pound. This lowers the cost of manufacture a trifle over 3 cents per pound on account of cotton alone from the schedule of cost upon which the present price of powder was based last year.

3. The expenditure for alcohol per pound of powder amounted to about 3.5 cents, making the total cost 47.33 cents.

4. We find that we have invested here in plant, powder in dry houses, raw material, repair parts in store, etc., nearly $1,500,000. The interest on this and a suitable working cash capital, plus taxes and salaries of administrative officers, would easily add about 10 cents per pound.

NAVAL PROVING GROUND,
Indianhead, Md., August 2, 1906.

SIR: By direction of the Bureau of Ordnance:

1. I have to submit the following estimate of the probable cost of smokeless powder at private works:

2. The cost of manufacturing 1,000,000 pounds of powder at the Indianhead works during the fiscal year recently closed has been 47.4 cents per pound, exclusive of alcohol. Every item due to its manufacture is included in this cost. All raw materials, chemicals, laboratory expenses, heat, light, power, care of grounds, buildings, etc., have been reckoned; also a charge for loss by fire based upon the mean fire loss for the last six years.

3. Included in this is an allowance of 5 per cent for a depreciation on buildings and improvements. Another allowance of 10 per cent depreciation on the machinery of the entire plant is also included.

4. In comparing the cost of powder at this plant with private manufactures, it would be fair to assume generally that private purchasers obtain their material at least 10 per cent less than the Government does. It has been hinted to me that the Tennessee Fiber Company sells its material to private manufacturers at 4½ cents per pound; we pay 5½ cents per pound. A paper manufacturer told me several years ago, when we were paying 6 cents, he was paying considerably less for this cotton. The same thing is probably true of acid. But on known data the following amounts should be subtracted from the cost at this place:

Labor, 28.5 per cent of $105,000	$29,925

We grant 26.5 holidays more than private firms, and we work only eight hours to their ten, or perhaps eleven. But taking ten hours as their day, with the holidays, they save 28.5 per cent on labor.

Depreciation on buildings and improvements, 5 per cent per annum	14,760
	44,685
Deducting this from	474,000
Leaves	429,315

Or, say, 42.9 cents per pound to the private manufacturer.

5. The total rejections of powder amount to 1.7 per cent during the history of its manufacture. These rejections have not affected Indianhead, and should not other makers. However, adding 1.7 per cent to their cost we have a total of 43.6 cents. If the powder can be reworked or used for other purposes, this item should not be considered.

6. It may be urged that there is a business hazard attached to the manufacture of this material—that is, that we may be making a different powder some day that will render much or all of the plant useless. Such an argument should have no weight, since we have already been using this powder for seven years or more, and in the account of cost given above 10 per cent of the machinery is expended each year off the books, which would provide for a total elimination of the plant in ten years. Attention is called to the powder "Cordite," which, in spite of its manifest disadvantages, has continued in use some fifteen years without any immediate prospect of some other powder being substituted for it.

7. On the basis of 1,000,000 pounds of powder manufactured per annum, it will be seen that a price of 70 cents per pound yields a profit of $264,000, and this considers every possible charge except the pay of the officers connected with the financial administration of the enterprise.

8. Judging from the cost of the Indianhead plant, the total investment will amount to about $650,000. On this basis the stockholders should receive a dividend of over 40 per cent on the capital invested if

the powder is sold at 70 cents. If it were sold at 55 cents per pound this would yield 17.5 per cent profit on the capital invested, and in case the orders were cut down during any one year to one-half, the profit should still be satisfactory.

Respectfully,

JOS. STRAUSS,
Lieutenant-Commander, U. S. Navy,
Inspector of Ordnance in Charge.

Commander A. M. KNIGHT, U. S. Navy,
President Joint Army and Navy Board
on Smokeless Powder Specifications,
Bureau of Ordnance, Navy Department,
Washington, D. C.

Mr. HITCHCOCK. Before we proceed, I ask unanimous consent to ask the chairman of the committee whether he has any official warrant for the statement that this powder plant cost a million and a half?

The CHAIRMAN. The gentleman from Nebraska asks unanimous consent that he may propound a question to the gentleman from Illinois, or that he may have the floor. Is there objection? [After a pause.] The Chair hears none.

Mr. HITCHCOCK. I have the figures according to the report.

Mr. FOSS. I will say to the gentleman that I prefer that this matter go over until to-morrow. The figures I have are figures that come from the Bureau of Ordnance.

Mr. HITCHCOCK. I have the figures from the Bureau of Ordnance, and they show that it is less than $850,000. I am speaking of the government plant at Indianhead.

Mr. FITZGERALD. Perhaps the gentleman is speaking of the Du Pont plant.

Mr. FOSS. No; I am speaking of the government plant.

The Clerk read as follows:

Purchase and manufacture of smokeless powder, $650,000.

Mr. SHERLEY. As to that paragraph, I ask that it go over.

Mr. FOSS. I ask that this paragraph also may go over.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

For Naval Gun Factory, Washington, D. C.: New and improved machinery for existing shops, $150,000.

Mr. TAWNEY. I move to strike out the last word for the purpose of asking the chairman of the committee a question. On what basis do you estimate for the new and improved machinery for existing shops in the Washington Gun Factory to be $150,000?

Mr. FOSS. We have allowed that sum practically for a number of years. The chief of ordnance has told us that he can not get along with any less. Tools and machinery are wearing out. They are manufacturing heavy guns, and it is necessary for them to have this, what seemingly is a large sum.

Mr. TAWNEY. Is it the full amount of the estimate?

Mr. FOSS. Yes; it is the full amount of the estimate.

Mr. STAFFORD. Can the gentleman state how much is used of this appropriation here?

Mr. FOSS. They use every part of it.

Mr. MACON. They use $150,000 for this purpose each year?

Mr. TAWNEY. Are they increasing the machinery?

Mr. FOSS. They are not increasing the machinery, except as appears in this bill.

Mr. TAWNEY. I rose to ask in what way?

Mr. FOSS. We are not increasing the plant at all; we are just keeping the machinery up to a high state of efficiency. That is all.

Mr. TAWNEY. The machinery is not of a character, surely, that has need to be replaced every year or every five years?

Mr. FOSS. Well, it is very expensive when anything gets out of order. We asked the Chief of Ordnance, as we wanted to inquire whether this was always needed or not:

Do you need all of that?

Admiral Mason answered:

Yes, sir; we have had that quite a number of years. That is for wear and tear on the machinery in the big shop.

The CHAIRMAN. Does it require that every year?

Admiral MASON. Yes, sir.

Mr. MACON. It is expended every year for that purpose under this appropriation?

The Clerk read as follows:

For continuing the relining and conversion of 12-inch Mark III guns to Mark IV guns, $150,000.

Mr. TAWNEY. Mr. Chairman, I move to strike out the last word for the purpose of asking about this provision:

For continuing the relining and conversion of 12-inch Mark III guns to Mark IV guns, $150,000.

When were those guns made? And what use have they been put to which necessitates their relining?

Mr. FOSS. Those are old guns which have been in use a number of years.

Mr. TAWNEY. How were they used?

Mr. FOSS. In target practice.

Mr. TAWNEY. It is use in target practice that necessitates their relining?

Mr. FOSS. Yes.

Mr. TAWNEY. How long can a new gun be used merely in target practice without relining?

Mr. FOSS. The Chief of the Bureau of Ordnance said about 120 times.

Mr. TAWNEY. About 120 times in target practice?

Mr. FOSS. Yes.

Mr. TAWNEY. What does one of these guns cost?

Mr. PADGETT. A 12-inch gun costs about $40,000.

Mr. FOSS. This relining will cost about $12,000 each.

Mr. KEIFER. Some of them will not stand firing that often.

Mr. FOSS. These are all old guns.

Mr. TAWNEY. How many are there to be relined?

Mr. FOSS. Twelve.

Mr. NORRIS. Will what the gentleman has said apply to new guns as well as to old ones, about the necessity for relining?

Mr. FOSS. Yes; they will have to be relined after they have been used a while.

Mr. NORRIS. After they have been discharged 140 times?

Mr. FOSS. After they have been fired 120 times they will have to be relined. The erosion is such as to make it necessary.

Mr. BUTLER. Unless they use a different kind of powder.

Mr. NORRIS. Then, guns of this sort would not last through one really heavy battle?

Mr. FOSS. The battle of the Sea of Japan was fought and won in forty minutes. Most of these modern battles are very short.

Mr. NORRIS. It may be that when Dewey stopped for breakfast he stopped to reline his guns.

Mr. TAWNEY. No; he stopped to reline the stomachs of his men. [Laughter.]

The Clerk read as follows:

Ammunition for ships: For procuring, producing, preserving, and handling ammunition for issue to ships, $3,000,000: *Provided*, That the Secretary of the Navy is hereby authorized to utilize all ammunition and other supplies already on hand under the appropriations "Increase of the navy; Armor and armament," "Reserve ammunition," and "Reserve powder and shell," for general issue to ships in commission, as though purchased from this appropriation: *Provided*, That no part of this appropriation shall be expended for the purchase of shells or projectiles except for shells or projectiles purchased in accordance with the terms and conditions of proposals submitted by the Secretary of the Navy to all of the manufacturers of shells and projectiles and upon bids received in accordance with the terms and requirements of such proposals. All shells and projectiles shall conform to the standards prescribed by the Secretary of the Navy.

Mr. SHERLEY. Mr. Chairman, I ask unanimous consent that this paragraph also go over without prejudice until to-morrow.

Mr. FOSS. Mr. Chairman, I think it ought to go over, in connection with the other.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent that this paragraph be passed without prejudice until to-morrow. Is there objection?

There was no objection.

Mr. GAINES of Tennessee. I ask unanimous consent to print a paper sent to me this morning by the Department of Justice, which I called for.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to print in the RECORD a statement which he holds in his hand.

Mr. TAWNEY. What is the statement about?

Mr. GAINES of Tennessee. It is in relation to the powder trust, a statement of certain facts that came to light in the suit against that trust.

Mr. TAWNEY. Does it pertain to the matters contained in this bill?

Mr. GAINES of Tennessee. Oh, yes. I would not want to put it in here if it did not. I put myself to a great deal of trouble to enlighten the House, as well as myself, on some questions.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The document referred to is as follows:

In the testimony taken in the case against the so-called "powder trust" an agreement was brought to light between the trust and European manufacturers, one portion of which is of considerable public interest. The parties to the agreement were the following:

Messrs. E. I. du Pont de Nemours & Co., of Wilmington, Del.; Laflin & Rand Powder Company, of New York City; Eastern Dynamite Company, of Wilmington, Del.; the Miami Powder Company, of Xenia, Ohio; the American Powder Mills, of Boston, Mass.; the Ætna Powder Company, of Chicago, Ill.; the Austin Powder Company, of Cleveland, Ohio; the California Powder Works, of San Francisco, Cal.; the Grant Powder Company (Consolidated), of San Francisco, Cal.; the Judson Dynamite and Powder Company, of San Francisco, Cal.; the Vereinigte

Koln-Rottweiler Pulverfabriken, of Cologne; and the Nobel Dynamite Trust Company (Limited), of London.

This agreement was to be in effect for a period of ten years, and is believed to have been substantially continued until the present time. The parties to the agreement being the chief manufacturers of explosives, and controlling numerous subsidiary concerns, agreed to file with each other a list of companies controlled by the combination entering into the agreement, and the specific statements of the things undertaken are contained in paragraphs 3 to 8, inclusive, of the agreement, which are as follows:

"Regarding detonators, it is agreed that the European factories shall abstain from erecting detonator works in the United States of North America. The works which are building at Jamesburg, N. J., are not to be completed, and the whole scheme as worked out by Mr. Muller is to be abandoned. In consideration of this scheme being abandoned and the erection of the works being stopped, the American factories undertake to bear all expenses hitherto incurred in connection therewith, and they will, moreover, discharge the obligations which Mr. Muller has undertaken in connection with the above-mentioned scheme, with regard to which obligations a special subsidiary agreement is to be made. And it is, moreover, agreed that the American factories shall order and take from the European factories, i. e., from the T. Rhenish Westphalian Sprengstoff A. G. every year 5,000,000 detonators at the following prices, viz., 11 marks for No. 3, 12 marks for No. 3 rim, 13 marks for No. 4, 15.50 marks for No. 5, 16.50 marks for No. 5 rim, 20 marks for No. 6, and 21 marks for No. 6 rim, all these prices to be understood per 1,000 ex. ship. New York without duty.

"As regards black powder, the American factories bind themselves not to erect factories in Europe, and the European factories bind themselves not to erect factories in the United States of America. Both parties, however, are to be free to import into the other party's territory.

"As regards smokeless sporting powder, the American factories undertake not to erect factories in Europe, and the European factories undertake not to erect factories in the United States of America. Both parties, however, are to be free to import into the other party's territory.

"With regard to smokeless military powder, it is hereby agreed that the European factories undertake not to erect any factories in the United States of America, and that the American factories undertake not to erect any factories in Europe.

"Whenever the American factories receive an inquiry for any government other than their own, either directly or indirectly, they are to communicate with the European factories through the chairman appointed, as hereinafter set forth, and by that means to ascertain the price at which the European factories are quoting or have fixed, and they shall be bound not to quote or sell at any lower figure than the price at which the European factories are quoting or have fixed. Should the European factories receive an inquiry from the Government of the United States of North America, or decide to quote for delivery for that Government, either directly or indirectly, they shall first in the like manner ascertain the price quoted or fixed by the American factories, and shall be bound not to quote or sell below that figure.

"With regard to high explosives (by which all explosives fired by means of detonators are to be understood), it is agreed that the United States of North America, with their present or future territories, possessions, colonies, or dependencies, the Republics of Mexico, Guatemala, Honduras, Nicaragua, and Costa Rica, as well as the Republics of the United States of Colombia and Venezuela, are to be deemed the exclusive territory of the American factories and are hereafter referred to as 'American territory.' All the countries in South America not above mentioned, as well as British Honduras and the islands in the Caribbean Sea, which are not Spanish possessions, are to be deemed common territory, hereinafter referred to as 'Syndicated territory;' the rest of the world is to be the exclusive territory of the European factories, hereinafter referred to as 'European territory.' The Dominion of Canada and the ilsands appertaining thereto, as well as the Spanish possessions in the Caribbean Sea, are to be a free market unaffected by this agreement.

"The American factories are to abstain from manufacturing, selling, or quoting, directly or indirectly, in or for consumption in any of the countries of the European territory, and the Europeans are to abstain in like manner from manufacturing, selling, or quoting, directly or indirectly, in or for consumption in any of the countries of the American territory. With regard to the Syndicated territory, neither party are to erect works there, except by a mutual understanding, and the trade there is to be carried on for joint account in the manner hereinafter defined."

This suit was filed July, 1907, in the federal circuit court for the district of Delaware, and is styled as follows: "United States of America *v.* E. I. du Pont; De Nemours & Co.; E. L. du Pont De Nemours Powder Company of New Jersey; du Pont International Powder Company; Delaware Investment Company; Delaware Securities Company; California Investment Company; The Hazard Powder Company; Laflin & Rand Powder Company; Eastern Powder Company; E. I. du Pont De Nemours Company of Delaware; E. I. du Pont De Nemours & Co., of Pennsylvania; The King Powder Company; Austin Powder Company, of Cleveland; California Powder Company; Fairmount Powder Company; Conemaugh Powder Company; International Smokeless Powder and Chemical Company; Judson Dynamite and Powder Company; Metropolitan Powder Company; Peyton Chemical Company; The Ætna Powder Company; E. C. & Schuetze Gunpowder Company (Limited); The American Powder Mills; The Anthony Powder Company (Limited); The Equitable Powder Manufacturing Company; The Miami Powder Company; Alexis I. du Pont; Alfred I. du Pont; Eugene du Pont; Eugene E. du Pont; Henry A. du Pont; Harry F. du Pont; Irenee du Pont; Francis I. du Pont; Pierre S. du Pont; Thomas C. du Pont; Victor du Pont, jr.; Johnathan A. Haskell; A. J. Moxham; H. H. Barksdale; H. F. Baldwin; E. G. Buckner, and F. L. Connable.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. LONGWORTH having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, its reading clerk, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 8422. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and to widows and dependent relatives of such soldiers and sailors; and

S. 8254. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain dependent relatives of such soldiers and sailors.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R. 24344. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the civil war, and to widows and dependent relatives of such soldiers and sailors.

The message also announced that the Senate had passed, with amendments, bills of the following titles, in which the concurrence of the House of Representatives was requested:

H. R. 23850. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors; and

H. R. 23849. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors.

NAVAL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

Torpedoes and appliances: For the purchase and manufacture of torpedoes and appliances, $625,000.

Mr. TAWNEY. Mr. Chairman, I observe that there is an increase of $300,000 for the purchase and manufacture of torpedoes and appliances. I would like to have the chairman explain the necessity for this increase.

Mr. MACON. There is an increase of $325,000.

Mr. FOSS. I want to say that we are very short on torpedoes. The Chief of the Bureau of Ordnance asked for twice this amount; we cut it in two. He said:

We are still behind in torpedoes.

"How much behind?" was asked of him.

What I mean by behind is that we are short, very short, in torpedoes compared with the number they have abroad.

And then he gives us a statement, which was rather a startling statement, as to the condition of our navy on the subject of torpedoes.

Mr. TAWNEY. Are these reserve torpedoes; and if not reserve, how are they used now?

Mr. FOSS. They are used in practice shooting on board ships and also in reserve, wherever they want to use torpedoes of any kind.

Mr. OLCOTT. Will the gentleman yield?

Mr. FOSS. I will yield to the gentleman.

Mr. OLCOTT. Is it not a fact that they stated that the English navy had 10,000 torpedoes and we had about 400?

Mr. FOSS. I did not care to mention the number, but we have only about 445.

Mr. TAWNEY. I hope we are not determining our naval necessities entirely by what other nations have on hand or are doing.

Mr. OLCOTT. There ought to be some comparison between them.

Mr. FOSS. No; but we are very short, the supply at the present time is very small, and the committee has cut the appropriation down from the estimate one-half.

Mr. TAWNEY. I withdraw the pro forma amendment.

MESSAGES FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. LONGWORTH having taken the chair as Speaker pro tempore, sundry messages, in writing, from the President of the United States were communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House of Representatives that the President had, on January 20, 1909, approved and signed bills of the following titles:

H. R. 8615. An act to correct the naval record of Edward T. Lincoln;

H. R. 14343. An act to correct the naval record of Randolph W. Campbell; and

H. R. 23351. An act for the relief of the owners of the Mexican steamship *Tabasqueno.*

NAVAL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

For experimental work in the development of armor-piercing projectiles, fuses, powders and high explosives, in connection with problems of the attack of armor with direct and inclined fire at various ranges, including the purchase of armor, powder, projectiles, and fuses for the above purposes, and of all necessary material and labor in connection therewith; and for other experimental work under the cognizance of the Bureau of Ordnance in connection with the development of ordnance material for the navy, $100,000.

Mr. TAWNEY. Mr. Chairman, this is a new provision. I move to strike out the last word.

Mr. FOSS. In the estimate they ask for $200,000, and we cut it in two, allowed them $100,000 for experiment, and they regard it as very necessary.

Mr. TAWNEY. From what appropriation have these experiments been paid for heretofore? We have had experiments in the development of armor piercing.

Mr. FOSS. They have got along as best they could under the ordnance and ordnance stores. What little they have expended has been very small and has been done with that appropriation.

Mr. TAWNEY. Could it be done under that appropriation legitimately?

Mr. FOSS. I think it could legitimately, yes; but they have expended very little. Now they are very anxious about provision.

Mr. GAINES of Tennessee. Will not the gentleman from Illinois consent that this paragraph go over until to-morrow? It involves the purchase of powder.

Mr. FOSS. Oh, this is simply for experimental work.

Mr. GAINES of Tennessee. We may want to make some change in it.

Mr. FOSS. There is no necessity for having this paragraph go over.

Mr. GAINES of Tennessee. If we find out that there is, will the gentleman have any objection to our going back to it?

Mr. FOSS. Oh, no.

The Clerk read as follows:

Arming and equipping naval militia: For arms, accouterments, ammunition, signal and medical outfits, boats and their equipment and maintenance, fuel and clothing, and the printing or purchase of necessary books of instruction for the naval militia of the various States, Territories, and the District of Columbia, under such regulations as the Secretary of the Navy may prescribe, $100,000.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word. I observe that in this item there is some new phraseology. I would like to have the gentleman explain the scope of the work covered by this paragraph.

Mr. FOSS. We have only put in a few words, medical outfit, and so forth. We provide for the naval militia, but we have not increased the appropriation in any part whatever.

Mr. STAFFORD. I have not made any question as to that; my query is directed to the scope of the work of the naval militia.

Mr. FOSS. They are doing excellent work; they are training and have maneuvers during the summer time on the lake, as the gentleman knows, and are fitting themselves for a reserve force in time of war. There is no body of men anywhere that is doing more excellent work than the naval reserve of our country to-day.

Mr. STAFFORD. Is any part of the expense being sustained by the States themselves?

Mr. FOSS. Oh, yes.

Mr. STAFFORD. Then this is merely supplementary to the expense undertaken by the States?

Mr. FOSS. Yes.

Mr. STAFFORD. I withdraw the pro forma amendment.

The Clerk read as follows:

Coal and transportation: Purchase of coal and other fuel for steamers and ships' use, and other equipment purposes, including expenses of transportation, storage, and handling the same, and for the general maintenance of naval coaling depots and coaling plants, $5,000,000.

Mr. TAWNEY. Mr. Chairman, I move to strike out the last word. The appropriation for coal for the current fiscal year was $5,000,000. That was a considerable increase over the appropriation for the preceding year, made necessary, as we were then informed, on account of the fleet going on its trip around the world.

Mr. FOSS. Yes; but we had a deficiency of $1,700,000.

Mr. TAWNEY. The appropriation in the naval appropriation bill for the current fiscal year included the increase on account of the voyage of the fleet around the world. Now, I would like to ask the gentleman if it is necessary to appropriate the same amount this year, in view of the fact that so far as we know there is no trip of that kind contemplated during the year 1910?

Mr. FOSS. Why, no; but they depleted every coal pile they came in sight of. [Laughter.]

Mr. TAWNEY. Does the gentleman mean to say that our reserve, accumulated prior to the time this fleet started out, has been exhausted?

Mr. BUTLER. Yes.

Mr. LOUDENSLAGER. I would not say exhausted.

Mr. TAWNEY. It has been greatly depleted, then, so as to require this amount for the next fiscal year to resupply the various coaling stations?

Mr. FOSS. Yes.

Mr. ADAIR. Can the gentleman tell us what the cost of that trip around the world was?

Mr. FOSS. They have not finished yet.

Mr. ADAIR. What was the appropriation for the fiscal year 1908?

Mr. PADGETT. About two and a half millions.

Mr. FOSS. The gentleman does not mean the appropriation under this paragraph—it was a good deal more than that.

Mr. PADGETT. No. If the gentleman will look in Mr. Pulsifer's book, he will see that the amount of coal purchased for 1908 was two and a half million dollars; for the last year, 1909, about five millions.

Mr. FOSS. For the coal item alone, the gentleman means, as to the two millions and a half.

Mr. PADGETT. Yes.

Mr. FOSS. And this paragraph includes the transportation.

Mr. PADGETT. I mean coal and transportation. In other words, there was an increase of two and a half millions on account of that trip around the world.

Mr. LOUDENSLAGER. Does the gentleman mean the act of 1907?

Mr. PADGETT. Yes.

Mr. LOUDENSLAGER. That was four millions and odd.

Mr. STAFFORD. If they required only two and a half million dollars two years ago, what is the need of having double the amount for the coming year unless it is contemplated to have an annual pilgrimage around the world?

Mr. FOSS. If the gentleman will read this item, he will find that coal is one item and transportation another. He will find this covers transportation, storage, and handling of the same, and general maintenance of naval coaling stations and plants.

Mr. STAFFORD. After the stations have been supplied with coal, that have been depleted by the fleet in the trip around the world, will it be necessary, in the opinion of the committee, to have as large an appropriation as five millions to maintain the fleet each year?

Mr. FOSS. Well, I should say I think it would.

Mr. STAFFORD. Will it require more if we go on providing for two large battle ships each year?

Mr. FOSS. Yes; if we go on building up the navy, we will have to increase the appropriation.

Mr. STAFFORD. How much more if two battle ships a year are added?

Mr. FOSS. I could not say.

Mr. STAFFORD. Can the gentleman give any estimate based upon an increase of the navy of two large battle ships each year as to what would be the increased cost in the total bill.

Mr. FOSS. No; I could not give any estimate. I do not know how many tons of coal a battle ship burns. Some ships burn a hundred tons a day and some less. It depends entirely on what these ships are put to.

Mr. LOUDENSLAGER. And how fast they go.

Mr. FOSS. Yes; a good deal on the speed, and there are a great many elements that enter into a question of this kind, but this appropriation, in my judgment, will not be reduced.

Mr. STAFFORD. The committee might be able to furnish some general estimate as to what will be the increased cost if Congress should appropriate money for providing two additional war ships each year.

Mr. FOSS. I could not give that information to the gentleman.

Mr. PADGETT. May I answer a question that was asked just a moment ago? Mr. Pulsifer states on page 645 with reference to coal that on a ton of coal a battle ship will go about 3.25 knots. The *Louisiana* bunkers hold 2,500 tons and could go twenty-eight days at 10 knots an hour, or 6,720 knots.

Mr. FOSS. The gentleman can figure it out from that.

Mr. STAFFORD. Of course, but I thought probably the clerk of the committee could compute it and furnish us with the information.

Mr. TAWNEY. I would like to ask the gentleman whether the navy is using any coal now from the island of Luzon.

Mr. LOUDENSLAGER. The gentleman means taken from the island?

Mr. FOSS. No; that coal which was so much talked about at the time was found to be absolutely useless for the navy.

Mr. POLLARD. Mr. Chairman, I move to strike out next to the last word, in order to ask the chairman of the committee a question. I see that the wording of the paragraph here includes transportation. Does that also include the cost that the Government was put to in chartering the vessels to act as couriers to accompany the fleet?

Mr. FOSS. Yes; but I would say most of that was taken care of by a special appropriation which came from the Ap-

propriations Committee in the shape of a deficiency, amounting to $1,700,000, but some of it did not. The cost of the fleet, we may say, so far as the coal proposition is concerned, was two and a half million dollars all told. A million dollars of it was for the cost of the coal, and about a million and a half for transportation.

Mr. POLLARD. Does that include the cost of chartering the ships?

Mr. FOSS. Yes; that includes the cost of chartering the ships under the term of "transportation."

Mr. FITZGERALD. Mr. Chairman, I move to strike out the last word. I understood the chairman of the committee to say the transportation cost about a million and a half for coal during the past year——

Mr. FOSS. No; I am speaking about the cruise of the Atlantic Fleet.

Mr. FITZGERALD. I wish to inquire whether the gentleman can inform the committee how much was paid for transportation of coal for the fleet on this trip which has just been made.

Mr. FOSS. I will state to the gentleman that the statement appears on page 71 of the hearings, given by Admiral Cowles, Chief of the Bureau of Equipment, showing the approximate cost of coal and its transportation to supply the requirements of the Atlantic Fleet for its voyage around the world. The number of tons was 365,320 and the cost of the coal was $1,078,994 and the cost of transportation was $1,463,845; in all, substantially $2,500,000.

Mr. FITZGERALD. How much was the coal per ton and the cost per ton to transport it?

Mr. FOSS. The gentleman can figure that out.

Mr. FITZGERALD. I can not figure it out.

Mr. FOSS. The number of tons was 365,000 and the cost was $1,078,000.

Mr. FITZGERALD. Well, if I were a lightning calculator, I would tell the gentleman how much that was a ton; but I am not. I wish to get information, for this reason: I was informed last summer that an offer was made to the department to supply coal for the fleet, I think at Sydney—I am not quite sure of the place—of the grade equal to the coal obtained in this country at a price per ton less than the cost of transporting it from the Atlantic seaboard; that the department declined the offer and bought coal here at a price in excess of what it was offered delivered at Sydney, and paid, moreover, the cost of transportation, which in itself was in excess of the price of the coal. I should like to know whether that happened, and the reason the department gives for the refusal to accept an offer of that character.

Mr. STAFFORD. I may say to the gentleman the average price on the figures given was $2.94.

Mr. OLCOTT. It approximates $3 a ton.

Mr. FITZGERALD. That is for the coal?

Mr. OLCOTT. Without considering the transportation——

Mr. FITZGERALD. But I want to know the cost of the transportation.

Mr. OLCOTT. The transportation cost a little more than $3.

Mr. FITZGERALD. Is that in American or foreign bottoms?

Mr. FOSS. You probably know most of the coal we sent with the fleet went in foreign bottoms. There were two or three American bottoms, but the rest of them were foreign bottoms.

Mr. FITZGERALD. What was the difference in the cost between the foreign and American bottoms?

Mr. FOSS. The American bottoms wanted about twice as much for the transportation of the coal as in foreign bottoms, just about twice as much.

The Clerk read as follows:

Depots for coal: To enable the Secretary of the Navy to execute the provisions of section 1552 of the Revised Statutes, authorizing the Secretary of the Navy to establish, at such places as he may deem necessary, suitable depots for coal and other fuel for the supply of steamships of war, $450,000.

Mr. MACON. Mr. Chairman, I move to strike out the last word. I want to ask the chairman of the committee about this appropriation. I see it is exactly the same as it was last year, $450,000.

Mr. FOSS. Yes.

Mr. MACON. Were not the coaling stations appropriated for last year located?

Mr. FOSS. These are to finish up the plans at San Diego, Cal., and also California City Point.

Mr. MACON. How did you arrive at the conclusion that it would require the same amount this year that it did last year?

Mr. FOSS. Well, the estimates which were submitted to the department stated that.

The Clerk read as follows:

BUREAU OF YARDS AND DOCKS.

Maintenance of yards and docks: For general maintenance of yards and docks, namely: For books, maps, models, and drawings; purchase and repair of fire engines; fire apparatus and plants; machinery; purchase and maintenance of oxen, horses, and driving teams; carts, timber wheels, and all vehicles for use in the navy-yards; tools and repairs of the same; stationery; furniture for government houses and offices in navy-yards and naval stations; coal and other fuel; candles, oil, and gas; attendance on light and power plants; cleaning and clearing up yards and care of buildings; attendance on fires, lights, fire engines, and fire apparatus and plants; incidental labor at navy-yards; water tax, tolls, and ferriage; pay of watchmen in navy-yards; awnings and packing boxes; and for rent of wharf and storehouse at Erie, Pa., for use of and accommodation of U. S. S. Wolverine, and for pay of employees on leave, $1,500,000: *Provided*, That the sum to be paid out of this appropriation under the direction of the Secretary of the Navy for clerical, inspection, drafting, messenger, and other classified work in the navy-yards and naval stations for the fiscal year ending June 30, 1910, shall not exceed $425,000.

Mr. TAWNEY. Mr. Chairman, I observe that the appropriation under this head is $1,250,000 in excess of the appropriation for the same purposes for the current fiscal year.

Mr. FOSS. Not $1,250,000; just $250,000.

Mr. MACON. Two hundred and fifty thousand dollars.

Mr. TAWNEY. I see that the increase is $250,000. I want to inquire whether this estimated increase is made for the reason that there will be more repairing of ships in the navy-yards during the fiscal year than there was during the current fiscal year?

Mr. FOSS. No; this has nothing to do with that.

Mr. TAWNEY. Then what is the occasion for this material increase?

Mr. FOSS. Hereafter this bureau, the Bureau of Yards and Docks, will purchase all the furniture for all the other bureaus of the Navy Department. That is one item which makes the increase.

Mr. TAWNEY. Has there been a consolidation?

Mr. FOSS. There has been a consolidation on that item, which is a large item, too. And then we have always allowed a little increase in this appropriation each year, and we have been appropriating for more buildings at the navy-yard and, of course, it requires a larger sum for maintenance.

The Clerk read as follows:

Navy-yard, Washington, D. C.: Improvements to storehouse for guns and mounts, $7,000; concrete roofs for foundry buildings, $15,000; improvements to building 118, $3,000; improvements to building 41, $20,000; fireproof storehouse for fuses, acids, and oils, $15,000; in all, $60,000: *Provided*, That hereafter the Philadelphia, Baltimore and Washington Railroad Company be, and it is hereby, authorized and required to maintain its track connection with the United States navy-yard in the city of Washington, D. C., by means of a single track on K street and Canal street SE., either as at present located or as the same may hereafter be relocated, in whole or in part, with the approval of the Commissioners of the District of Columbia, and to continue the operation thereof, anything contained in any prior act or acts of Congress to the contrary notwithstanding.

Mr. SIMS. Mr. Chairman, I make the point of order against the entire provision, beginning in line 6 with the word "*Provided*" and going down to and including line 16.

The CHAIRMAN. The gentleman from Tennessee [Mr. SIMS] makes a point of order.

Mr. FOSS. Mr. Chairman, it is clearly subject to the point of order, but I wish to say——

The CHAIRMAN. Does the gentleman from Tennessee reserve his point of order?

Mr. SIMS. I will reserve it, of course, with the privilege of making a statement myself.

Mr. FOSS. Mr. Chairman, I do not care to say anything. I will just let it go.

The CHAIRMAN. The gentleman makes the point of order on page 23, commencing with the word "*Provided*," in line 6, to the end of the paragraph.

Mr. FITZGERALD. Mr. Chairman——

Mr. PADGETT. I call for the regular order.

Mr. SIMS. I make the point of order, then.

The CHAIRMAN. The Chair sustains the point of order.

Mr. FITZGERALD. I simply wish to say that it is information that ought to be in the RECORD, but I will act in the same way that the gentleman is acting.

The Clerk read as follows:

Naval station, Key West, Fla.: Latrines, $5,000; concrete cistern, $25,000; in all, $30,000.

Mr. SPARKMAN. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the committee if this appropriation of $30,000 and the items which go to make it up is the entire amount that was recommended by the department for Key West?

Mr. FOSS. I believe it was.

Mr. SPARKMAN. Was it the amount recommended by the department, or did the department cut down the commandant's recommendation?

Mr. FOSS. It was recommended by the department. The commandant, of course, recommended to the department, and whether the department cut out some of these estimates recommended to the department I do not know. But these were recommended by the department as they came to the committee.

Mr. SPARKMAN. Was there any recommendation for a foundry at Key West?

Mr. FOSS. I do not think there was.

Mr. SPARKMAN. I think perhaps at the last session of Congress there was.

Mr. FOSS. Yes; but none this year.

Mr. SPARKMAN. I would also like to ask the gentleman if he does not think it would be a good idea to appropriate for one there? I saw a recommendation a year or so old for $60,000 for a foundry there.

Mr. FOSS. I do not think it was in the estimates this year. I am sure it was not.

Mr. SIMS. Mr. Chairman, I move to strike out the last word, simply to ask the consent of the committee to put a couple of letters in the RECORD on the subject-matter of the point of order I made.

Mr. TAWNEY. Are both letters alike?

Mr. SIMS. They are from different parties.

Mr. TAWNEY. Are they both alike?

Mr. SIMS. They are not the same exactly.

Mr. Chairman, I ask for unanimous consent to print in the RECORD the two letters that I referred to.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to print in the RECORD the two letters to which he refers. Is there objection?

There was no objection.

Following are the letters:

EAST WASHINGTON CITIZENS ASSOCIATION,
Washington, D. C., January 18, 1909.

Hon. THETUS W. SIMS,
Washington, D. C.

SIR: We are opposed to, and ask you to vote against, the provision in the naval appropriation bill requiring the "Philadelphia, Baltimore and Washington Railroad Company" (Pennsylvania), to maintain permanently its railroad connection with the Washington Navy-Yard by grade tracks on K and Canal streets SE., for the following reasons, namely:

Said railroad connection is the only grade track remaining in the city, and it has seven dangerous grade crossings, mostly unprotected by either gatekeepers or flagmen, and its removal is required by the acts of 1901 and 1903, providing for the elimination of grade crossings and the construction of the Union Station. It is dangerous to the citizens, depreciative of property values, and has long been known as "dead man's curve."

By act approved May 27, 1908 (H. R. 20120, Public, No. 144), provision was made for a new railroad connection to the navy-yard by way of the north bank of the "Anacostia River," and the time limit for the removal of the present yard connection extended for two years, until 1910, and by a decree of the court in a suit by the United States against the railroad company said removal has been enjoined until said year.

In the naval appropriation bill for fiscal year ending June 30, 1908, the sum of $40,000 was appropriated to provide "necessary bridge and railroad tracks" to accommodate, within the yard inclosure, the new railroad connection contemplated by the next-above-mentioned act (H. R. 20120).

The adoption of the present provision in the naval bill now before Congress would be doing the very thing that the House refused to do on direct vote last April (vide CONGRESSIONAL RECORD, p. 5349, vol. 42, No. 104), when the House passed H. R. bill No. 20120 (the bill so passed was substituted for House bill 13844), which merely left down the present grade tracks without any new route provided for; this last-mentioned bill, which was rejected, was brought in by the District of Columbia Committee.

For the past twenty years the citizens of the District, particularly the members of the association, have, by public meetings, petitions, and memorials, earnestly urged the elimination of grade crossings within the city, and Congress, finally recognizing the necessity for such removal, has by the expenditure of about five and one-half million dollars (vide p. 8, Report of Commissioners of the District of Columbia for year 1908) afforded entire relief for the city except this one remnant of grade crossings. Why should it remain? The Navy Department does not ask for its maintenance permanently, but, on the contrary, has for the last three years asked for another route. We wonder if the railroad corporation wants it.

Our association has by resolution indorsed H. R. bill 24334, introduced by Mr. SIMS December 16, 1908, and entered protest against the passage of H. R. bill 24475, introduced by Mr. MOORE December 17, 1908, and copy of said resolution was sent the District of Columbia Committee.

Yours, very respectfully,

W. MOSBY WILLIAMS,
For Steam Railroad Committee,
Address, Columbian Building.

WASHINGTON, D. C., *January 16, 1909.*

Hon. T. W. SIMS, M. C.,
House of Representatives, United States Capitol, City.

MY DEAR MR. SIMS: Having written you in the past on behalf of the property owners whose interests are affected by the grade tracks in the southeast section of the city, near the navy-yard, I wish to call your attention to the proposition, as outlined in to-day's papers, of the Naval Appropriation Committee to make said grade tracks permanent.

You are so well informed on this subject that it is unnecessary for me to go into the legislation had in this matter up to the present time, but I would like to call your attention to erroneous impressions of the Naval Committee in this regard, namely:

If your bill (H. R. 24334) is passed, as it should be, there will be no necessity for further legislation.

The present railroad is called by the Naval Committee "a small spur;" it is only a small spur from K to M streets, but it is part of the former main tracks of the Pennsylvania Railroad from New Jersey avenue to Fifth street, a distance of seven squares in all, and having, on the whole, seven dangerous grade crossings.

The present shipments of freight to the navy-yard will not have to be stopped because the courts have provided for the maintenance of the present tracks until May 27, 1910.

The committee report states that a subcommittee was appointed to investigate the purchase of land offered for the purpose of obtaining the new railroad connection and that it should not be purchased because it was held at an exorbitant figure. This objection it met by the terms of your bill providing for condemnation of a right of way by a jury, who will fix the value of the land taken.

The further statement is made by the committee that the section of the city through which the present tracks run is sparsely inhabited, which statement could not have been made had the committee traversed the line of the railroad tracks, for the reason that practically every building lot facing upon and in the immediate vicinity thereof is improved by small dwelling houses; in addition to this, the public reservation between K and L, Fifth and Sixth streets, traversed by the yard railroad connection, has been recently used as a public playgrounds reservation, and a high wire fence has been built on each side of the railroad track, in order to try to protect the lives of the children who use the public space.

The citizens generally are convinced that the interests back of keeping this railroad connection are first and above all the Pennsylvania Railroad Company, and with it is the Standard Oil trust and the Allegheny Coal Corporation, who can maintain grade switches if this navy-yard track is retained.

This is very apparent when you read the 1901 elimination of grade crossings act (Public No. 49, sec. 2). You find a specific provision for removal of these tracks on K and Canal streets, but nothing is said about removing the garbage-plant switch, the Standard Oil trust switch, Allegheny Coal Company's, and several other lumber and coal companies' switches that will be permitted to remain if Congress will leave down the present navy-yard tracks.

The Standard Oil Company has a grade railroad switch in Square N. of 697; the garbage plant, which should be removed to some outlying portion of the District, has a switch into Square 739; the Allegheny Coal Company into Square E. of 643; and several other switches as are shown in the inclosed plat.

In conclusion, I beg to ask why, after five and one-half million dollars have been spent to eliminate grade crossings, should Congress fasten forever on the citizens of this section not a "spur track for only a short distance," but a track with many switches into private yards, crossing seven streets at grade, as well as a children's playgrounds, instead of spending less than $200,000 (as estimated by the Naval Department that the new railroad connection would cost), instead of eliminating these grade crossings?

Yours, very respectfully,

BURR N. EDWARDS.

Mr. FOSS. Mr. Chairman, I ask unanimous consent to print in the RECORD a letter from the Secretary of the Treasury relating to the railroads to the navy-yard, Washington, D. C.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to print in the RECORD the letter he referred to. Is there objection? [After a pause.] The Chair hears none.

The letter is as follows:

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, December 9, 1908.

SIR: I have the honor to transmit herewith for the consideration of Congress copy of a communication from the Secretary of the Navy of the 5th instant, submitting an estimate of appropriation in the sum of $303,683.33 for the purchase of land and change in railroad system, including new construction, for the navy-yard, Washington, D. C.

Respectfully,

GEO. B. CORTELYOU,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

NAVY DEPARTMENT,
Washington, December 5, 1908.

SIR: I have the honor to forward herewith for transmission to Congress an estimate prepared by the Bureau of Yards and Docks under the caption "Public works, Bureau of Yards and Docks," subhead "Navy-yard, Washington, D. C.," for the purchase of land and change in railroad system, including new construction, $303,683.33. Attached to this estimate are copies of correspondence in explanation thereof.

Very respectfully,

TRUMAN H. NEWBERRY,
Secretary.

The SECRETARY OF THE TREASURY.

Supplemental estimates of appropriations required for the service of the fiscal year ending June 30, 1910, by the Bureau of Yards and Docks, Navy Department.

PUBLIC WORKS, BUREAU OF YARDS AND DOCKS.

Navy-yard, Washington, D. C.—

Purchase of land and change in railroad system, including new construction (act May 13, 1908, vol. 35, p. 140, sec. 1; submitted) $303,683.33

NOTE.—The necessity for this estimate is shown by copy of letter and indorsements hereto annexed. This estimate was not included in the regular estimates, on account of the conditions arising after such estimates had been approved and forwarded.

PHILADELPHIA, BALTIMORE AND WASHINGTON RAILROAD CO.,
OFFICE OF THE SECOND VICE-PRESIDENT,
Philadelphia, October 5, 1908.

DEAR SIR: Referring to the question of the branch line, or siding, to connect the navy-yard at Washington with the tracks of the Philadelphia, Baltimore and Washington Railroad Company, at its recent session Congress passed an act "Public—No. 144, H. R. 20120," authorizing and directing the Philadelphia, Baltimore and Washington Railroad Company to construct same and prescribing the location, terms, and conditions governing the use thereof. The act provides that the entire cost of furnishing the right of way and building said siding

shall be borne by the railroad company; also that where the line approved by the District Commissioners lies within the bed of any public highway or through any public space, the railroad company is given the right to occupy same; further, that the construction of the track or siding shall be begun within six months and completed within two years from the date of the act, and that pending such construction the railroad company is authorized to maintain its present track connection with the navy-yard.

Investigation disclosed the following facts:

"1. That the volume of business during the year 1907 (when activities were great) to and from the navy-yard amounted, so far as the Pennsylvania system is concerned, to 62,384 tons, producing a gross revenue of $102,593, and to and from the lines south of Washington and via the Baltimore and Ohio Railroad to 5,170 tons, for the movement of which the Pennsylvania system received $907, gross.

"2. That the estimated cost of the construction of the line as approved by the District Commissioners, exclusive of the right of way, amounts to $93,480.

"3. That very little portion of the line would occupy any public highway or public space.

"4. That the cost of the right of way through private property is unestimable because of the value of the ground taken and the destruction or impairment of the riparian rights appurtenant thereto."

Because of the small gross earnings, the heavy cost of construction, and the probably large cost of the right of way this company can not see its way clear to build the tracks under the conditions prescribed in the act, and in view of the limited time fixed for maintaining the present track connection it seems proper to me that your department should be advised of our conclusions, in order that you may take such steps as you may deem necessary to protect yourself from the embarrassment that should result should the navy-yard be cut off from track connection with the railroad.

Permit me to say that in my judgment the United States Government should build and own this track, which is, after all, as much a part of the navy-yard plant as any other constituent portion of it. It is what would be required of a private enterprise under similar conditions.

Yours, truly,

CHAS. E. POUGH,
Second Vice-President.

Hon. TRUMAN H. NEWBERRY,
Assistant Secretary of the Navy,
Washington, D. C.

[First indorsement.]

NAVY DEPARTMENT, *October 9, 1908.*

Referred to the commandant, navy-yard, Washington, for remark.

V. H. METCALF, *Secretary.*

[Second indorsement.]

UNITED STATES NAVY-YARD,
Washington, D. C., October 14, 1908.

(1) Respectfully returned to the Secretary of the Navy.

(2) If the Philadelphia, Baltimore and Washington Railroad Company can not be compelled, and I believe they can not be, to build the spur connecting this yard with their system, there are only two alternatives, one to get a bill through Congress to allow the tracks to remain where they are at present, or for the Government to build the spur at its expense.

(3) It is absolutely essential for the efficiency, and even existence, of this yard to have railroad connection.

(4) If the last alternative is adopted, then the following sum should be obtained during the present session of Congress and the money made immediately available, so that the tracks can be finished before the expiration of the two years' grace which are allowed and which expire May 27, 1910:

Purchase of squares 955 and 979	$161,872.00
Building railroad yard in above squares to accommodate 80 cars	17,331.33
Building spur to these squares (last estimate of railroad company) as approved by District Commissioners	93,480.00
Right of way:	
Square No. 1067	15,000.00
Square No. 1001	16,000.00
Total	303,683.33

(5) We are going ahead in this yard to change all the switches in the northwest corner of the yard in anticipation of the new connections, and the Bureau of Yards and Docks has opened bids for the railroad bridge across Slip No. 1.

E. H. C. LEUTZE,
Rear-Admiral, U. S. Navy,
Commandant and Superintendent Naval Gun Factory.

[Third indorsement.]

NAVY DEPARTMENT, *October 31, 1908.*

Referred to the Bureau of Yards and Docks.

In view of the decision of the railroad company, as within communicated, not to proceed with the construction of the siding to connect its tracks with the Washington Navy-Yard, the second of the alternative courses of action presented by the commandant of the yard in his indorsement (second) herewith, which contemplates the building of the spur by the Government, is approved.

The bureau will, accordingly, include in its estimates to be submitted to Congress at the coming session an item of $303,683.33 to cover the cost of constructing such spur track, including the establishment of a freight yard and the purchase of the necessary land and rights of way, as indicated in paragraph 4 of the commandant's indorsement.

NEWBERRY, *Secretary.*

The Clerk read as follows:

Naval station, Pearl Harbor, Hawaii: Toward dredging an entrance channel of a depth of 35 feet, $600,000; toward construction of dry dock, to cost $2,000,000, $200,000; toward yard development, $100,000; in all, $900,000.

Mr. TAWNEY. Mr. Chairman, I move to strike out the last word. I desire to ask the chairman of the committee what progress has been made during the last year with respect to the construction of the naval station at Pearl Harbor, Hawaii, and whether the land for the site has been acquired?

Mr. FOSS. The land has been in the possession of the Government for a number of years, but no actual work has been done.

Mr. TAWNEY. Why is it there has been no work done? It is a very important matter.

Mr. FOSS. They have had to get out their specifications and plans for the dry dock; and, as I understand, they have not yet received any bids, or not opened them, and they will open the bids next month. Of course, the most important thing is in connection with the dock.

Mr. TAWNEY. Is the dredging of this channel necessary for the construction of the station and dock?

Mr. FOSS. It is necessary in order to get ships up there.

Mr. TAWNEY. I know it is necessary to the use of the station after it is built; but my question is as to the propriety of opening that channel so that war vessels may go in before we have constructed the station and have had it fortified.

Mr. FOSS. It ought to be done all at the same time. That is the way we have made the appropriation here. The work ought to go on all at the same time. It will take some years to do it. This is a very large project, which will cost $3,000,000, to dredge this channel up to the navy-yard, and there are a number of corners to be filed off, so to speak.

Mr. TAWNEY. Will it require all this money to dredge out the harbor?

Mr. FOSS. Yes.

Mr. TAWNEY. What I am opposed to is to having this work done so that war vessels can go up the harbor years before we will have occasion for it and before the station is completed.

Mr. FOSS. It is a harbor of refuge if we should have any trouble in the years to come.

Mr. TAWNEY. It is also fortified at the present time.

Mr. FOSS. It is fortified against anybody getting up there and getting out, and fortified against us as a harbor of refuge.

Mr. KEIFER. I would like to ask the gentleman a question in reference to what was said by the gentleman from Minnesota. I do not think the harbor needs dredging—any large part of it. There is about a mile and a half in which the water is deep enough. The difficulty is that it needs straightening more than anything else. A great many of our battle ships can be taken in now, but not under their own steam. They can be drawn in, but they can not run in on their own steam. I have been there and looked over this channel with great care. That harbor itself has plenty of room for all the ships of the world after they pass through this channel.

Mr. TAWNEY. I would like to ask the gentleman another question. At the rate that the Navy Department has been moving toward the initiation of this naval station during the last year, how long will it be before the station will be completed?

Mr. FOSS. Well, I can not answer that question; but I think the Navy Department has moved with some expedition.

Mr. TAWNEY. During the last session of Congress we were led to believe that there was imminent necessity for this station to be constructed in the very near future. Now, since it has been authorized, the necessity seems to have passed away to a great extent.

Mr. FITZGERALD. I will ask how much has been spent out of the million dollars appropriated last year?

Mr. FOSS. Not a dollar has been spent.

Mr. FITZGERALD. How will they use this $900,000 if they have not spent any of the million yet?

Mr. FOSS. The plans have all been laid out, and they say they will need this additional sum during the coming year.

Mr. FITZGERALD. I know; but the gentleman says that they have just opened the bids for the dredging of the channel, that they have not even commenced the work. They have a million dollars toward it, and they have not spent a dollar so far. Now, what are they going to do with the additional $900,000?

Mr. FOSS. They will spend it. They say that they need every dollar of it during the coming year.

Mr. FITZGERALD. They will not spend it, in my judgment, not to be offensive; and it seems to me we are giving them an amount of money that they can not possibly require.

Mr. LOUDENSLAGER. It can not be lost.

Mr. FITZGERALD. But it tends toward making a deficit, which is a very bad thing to do.

Mr. FOSS. They will spend it; the gentleman need not worry.

The Clerk read as follows:

PUBLIC WORKS UNDER THE SECRETARY OF THE NAVY.

Buildings and grounds, Naval Academy: For the purchase of land for the extension of the present rifle range near Annapolis for the use of the midshipmen at the Naval Academy, $75,000.

Mr. MACON. Mr. Chairman, I reserve a point of order against that provision.

Mr. FOSS. Mr. Chairman, I hardly think this is subject to a point of order. It is for the purchase of an additional lot of land adjoining the present rifle range at Annapolis. If it was a separate tract of land, not adjoining the present range, then it would probably be subject to a point of order; but this being an extension of the present rifle range, it is not, in my judgment, subject to the point of order. There are a number of decisions on that point. I remember a number of years ago a point of order was raised against the purchase of additional land down here at the Washington Gun Factory, and the Chair at that time held that it was not subject to a point of order, inasmuch as the land sought to be purchased adjoined the land that was already government property.

Mr. MACON. The gentleman does not mean to say that we could, under existing law, appropriate to buy all the land that adjoined everything that the Government possesses, does he?

Mr. FOSS. No; but this is a continuation of work in progress.

Mr. MACON. I want to ask the gentleman if this $75,000 tract of land that is proposed to be purchased is contiguous to the present rifle range?

Mr. PADGETT. Yes.

Mr. MACON. Is it necessary that the Government should own it for the purpose indicated in the bill?

Mr. FOSS. Oh, very necessary.

Mr. MACON. What is the price per acre?

Mr. FOSS. The price is $75,000, and I do not remember the exact number of acres.

Mr. PADGETT. Two hundred and seventy-three acres.

Mr. MACON. May I ask the gentleman the necessity for this? We have not increased the number of cadets that have to practice at this range, have we?

Mr. FOSS. No; but this land which we seek to purchase is about to be used for villa sites in case the Government does not purchase it. Heretofore we have been firing over upon this land without any danger to human life. Now, a time has been reached when the land is valuable for residence purposes, and the owner says that unless we buy it he is going to sell it for that purpose, in which case our present rifle range will be destroyed. I may say that I took the matter up with the superintendent at Annapolis to see if we could not purchase this land for a good deal less than $75,000; to see if we could not get it for $60,000, but the owner has declined to reduce his price. I have here a statement from the officer at Annapolis who took the matter up with him.

Mr. FITZGERALD. How many acres are there?

Mr. PADGETT. Two hundred and seventy-three.

Mr. GAINES of Tennessee. Will the gentleman accept this amendment:

Or so much thereof as may be necessary.

Mr. FOSS. Oh, yes; I would be very glad indeed to accept that amendment, because the Navy Department will not spend a dollar more than is necessary.

Mr. GAINES of Tennessee. If that amendment is put in, then it will not be mandatory to spend that amount.

Mr. MACON. I thought the price of the ground had been agreed upon?

Mr. FOSS. No; it has not been agreed upon; but we inquired to see whether the owner would accept $60,000 for the land, and he declined to do so. We want to get it as cheaply as possible.

Mr. TAWNEY. What is the price per acre that you propose to pay?

Mr. FOSS. We may get it for less than $75,000, but there are 273 acres, and we are appropriating here $75,000. There are instances of recent sales, of both small and large amounts of land along the Severn River, which have changed hands at from $500 to $1,200 an acre.

Mr. TAWNEY. Is this agricultural land?

Mr. ROBERTS. No. It is contiguous to the present rifle range, and the shots go over the butts.

Mr. COX of Indiana. How much land does the Government own there for rifle-range purposes?

Mr. FOSS. I think about 40 acres.

Mr. TAWNEY. The range is 800 yards long at the present time.

Mr. BUTLER. What is included in the new area?

Mr. FOSS. Two hundred and seventy-three acres.

Mr. COX of Indiana. Is this land within the corporation limits of the city of Annapolis?

Mr. FOSS. I do not think it is.

Mr. COX of Indiana. Has this proposition to sell the land to the Government ever been up before Congress previous to this session?

Mr. FOSS. It has never come in as an estimate from the department before, but there has been some talk of buying it heretofore.

Mr. COX of Indiana. How far does it extend from the corporate limits?

Mr. FOSS. It is across the river; 2 or 3 miles.

Mr. COX of Indiana. Do I understand the gentleman to say that it is now used for farming purposes?

Mr. FOSS. No; it is not.

Mr. LOUDENSLAGER. The Government leases it.

Mr. MACON. The Government now leases the whole tract?

Mr. LOUDENSLAGER. Yes; and they will not lease it to the Government any longer.

Mr. FOSS. The owner says that he will have to sell it out for building sites for homes unless the Government buys it. We are in the position where we will have to take it or he will sell it.

Mr. MACON. Do we need the entire tract?

Mr. OLCOTT. If we do not get the 275 acres, we will have to buy a brand new range somewhere else.

Mr. BUTLER. We will have to take it or move out?

Mr. FOSS. I want to say that the owner has been very good about this; he has never charged the Government a cent for the use of it.

Mr. MACON. It looks like an exorbitant price to me. I believe in calling the bluff of the owner and telling him he can sell out to some one else. I believe it is a bluff to get an exorbitant price from the Government, and I think we should tell him to dispose of it to somebody else. Nobody would pay that price for that kind of land but the Government.

Mr. ROBERTS. We are told by the superintendent of the academy that in the use of the present range, which is an 800-yard range, the shots go over the butts and land on this property which it is proposed to purchase. No complaint has been made as yet, because there is nobody residing there; there are no houses there. But when the owner of the land desires to mow it, he notifies the authorities at the academy, and during that period there is no firing. Now, then, it is proposed to cut that land up into villa sites or house lots, and as soon as houses are built there the Government loses the use of its present 800-yard range.

Mr. MACON. Does the gentleman think that the city is going to extend across the river?

Mr. ROBERTS. They are beginning to build on that side of the river now.

Mr. MACON. Have they taken up everything on the other side—the city side of the river?

Mr. ROBERTS. No; but there is desirable land on this side upon which they are intending to build. That is the only information the committee has acted upon, and it seems to us that if we did not acquire it we should lose the benefit of the present range, and it was wise for the Government to purchase the land and retain the present range and also get a thousand-yard range in addition.

Mr. FITZGERALD. Does the gentleman think it is necessary to buy 273 acres of land in order to extend the range 200 yards?

Mr. ROBERTS. This is necessary to cover the land where the shots on the present range go over this land. We get, in addition, a thousand-yard range.

Mr. FITZGERALD. It is a small-arms range?

Mr. ROBERTS. It is a rifle range; it is not a pistol range. The shots go over the butts of the present range and make it impossible for people to live there.

Mr. MACON. Mr. Chairman, I know the precedents that disclose provisions in appropriation bills are not subject to a point of order where the land sought to be purchased is contiguous to that already owned by the Government; where it is desired to extend a rifle range, as in this instance. For that reason I will not insist upon the point of order, knowing that the precedents are the other way.

It does strike me, however, that the Government is being held up bodily by the owner of this land when he demands that he be paid $75,000 for 273 acres of land across the river from the city and in an out-of-the-way place; but we can not help it if the committee thinks it must be done, for the committee is stronger than individual Members of this House, and I am sure its will will prevail in this instance.

Mr. GAINES of Tennessee. Mr. Chairman, I want to reserve a point of order to get further information. The gentleman from Illinois, the chairman, has agreed that he will accept an amendment. I shall offer an amendment at the end of the word "dollars," in line 19, "or so much thereof as may be necessary."

Mr. FOSS. I will accept that amendment.

Mr. GAINES of Tennessee. Has there been any offer to take the property under the right of eminent domain?

Mr. ROBERTS. No; we had no authority for it.

Mr. GAINES of Tennessee. We have power to take it in that way.

Mr. ROBERTS. Not without legislative authority.

The CHAIRMAN. Does the gentleman from Tennessee offer an amendment?

Mr. GAINES of Tennessee. Yes.

The CHAIRMAN. The Clerk will report it.

The Clerk read as follows:

In line 19, after the word "dollars," insert "or so much thereof as may be necessary."

Mr. FOSS. I will accept that amendment.

Mr. GAINES of Tennessee. My recollection is that recently we have paid a claim of some individual who was shot down there accidentally by one of these riflemen in their practice, clearly showing, if I am correct, the necessity of having this public improvement. I think that, while the price may be too much for the land, yet if we have to keep on paying damages, it may be cheaper to purchase it at $75,000 in the end.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Naval training station, California, buildings: Roads, grounds, and planting of trees, $2,000; oiling parade grounds and roads adjacent, $2,050; shacks for the detention camp, $4,370; salt-water flushing system, $2,825.52; dredging the north side of island, $7,200; in all, $18,445.52.

Mr. TAWNEY. Mr. Chairman, I move to strike out the last word. I desire to call the attention of the gentleman in charge of the bill to the language in the paragraph as to oiling the parade grounds. What is it proposed to do—oil the road or the grounds?

Mr. LOUDENSLAGER. Both.

Mr. TAWNEY. What is the extent of the parade grounds?

Mr. FOSS. It will cost about $2,000. This is simply to lay the dust in the summer time. Admiral Pillsbury says it is one of the most dusty places in the country, and it is very windy, and that the wind carries germs, and they want to oil the parade ground and road. That would cost $2,000.

Mr. TAWNEY. I withdraw the pro forma amendment.

The Clerk read as follows:

Naval training station, Great Lakes, buildings: Roads, sidewalks, inner basin sea wall, entrance piers and dredging, arch bridge, wagon bridge to power house, walls and fences, garbage crematory, and grading, $314,000; railroad scales, scale house, and spur, $9,200; electric fixtures, interior and exterior arcs, and incandescent lamps, $33,500; cooking equipment, disinfecting equipment, and cold-storage installation, $10,000; fire apparatus, $4,150; elevators and dumb waiter, $6,450; storage balconies and trolleys in boathouse, $11,500; tower clock, electric clocks, and wiring, $1,600; furniture, filing apparatus, shelving, cupboards, fittings, lockers, and interior equipment for buildings, $23,000.

In all, to complete naval training station, Great Lakes, $413,400.

Mr. STAFFORD. I move to strike out the last word. I notice in the clause just read that the language is to complete the naval training station. Is that the total amount that will be needed to complete the station as planned?

Mr. FOSS. Yes.

Mr. STAFFORD. Can the gentleman give to the committee the total amount that has been appropriated in the improvement of this station so as to make it adaptable for the purposes intended?

Mr. FOSS. I have not figured out the amount; but over $3,000,000, I should say.

Mr. STAFFORD. The gentleman does not expect, then, that it will require any additional appropriation next year for construction purposes?

Mr. FOSS. No. This completes the station, as I understand it.

Mr. STAFFORD. Can the gentleman furnish the committee with any idea as to when the station will be ready for occupancy?

Mr. FOSS. July 1, 1910.

Mr. STAFFORD. When was the work originally started?

Mr. FOSS. About three or four years ago.

Mr. LOUDENSLAGER. Nineteen hundred and six, I think.

Mr. STAFFORD. How many will the quarters accommodate?

Mr. FOSS. Fifteen hundred, I believe.

The Clerk read as follows:

Naval magazine, Lake Denmark, N. J.: One magazine, including necessary clearing, grading, railroad track, water mains, electric lights, hose houses, and watchmen's clocks, $12,500. One high-explosive house for storage of explosive "D," including necessary clearing, grading, railroad track, water mains, electric lights, hose houses, and watchmen's clocks, $12,500. Extension of administration building to provide office for general storekeeper, for dispensary, and laboratory for testing powder, $3,000.

In all, $28,000.

Mr. STAFFORD. I reserve the point of order for the purpose of ascertaining whether this is a new project. In the report of the committee I do not find any estimate having been made for this project a year ago.

Mr. FOSS. Oh, that is an old magazine. Sometimes we appropriate one year for a magazine, and other times we let it go over for a year.

Mr. STAFFORD. Can the gentleman give the committee any information as to the number of these magazines that are distributed throughout the country?

Mr. FOSS. I could, but I have not the information here at hand. Most of them are mentioned right here in the bill. There are only two or three besides these.

Mr. STAFFORD. What advantage comes from having them distributed at different places rather than having them consolidated? Yesterday, in the committee, there was a strong effort made, based on the ground of economy, to discontinue the pension agencies. I would like to know whether there is any reason why they should be distributed at different places.

Mr. FOSS. I do not know of any particular reason. They have been authorized by Congress from time to time. They are not very desirable institutions, I will say to the gentleman.

Mr. STAFFORD. Could the work, without sacrifice to the naval service, be carried on in one station in certain localities rather than having them at different localities?

Mr. ROBERTS. You do not want your powder all in one place.

Mr. FOSS. It is desirable to have them scattered around; that is, to divide them up. It is not a good thing to have all your eggs in one basket.

Mr. STAFFORD. As I understand, there could be some consolidation of some stations.

Mr. FOSS. Not in the case of magazines.

Mr. STAFFORD. Then I misunderstood the answer the gentleman made to a question a few moments ago.

Mr. FOSS. I do not think it would be desirable in the case of powder magazines. We would not want to put all our powder or ammunition in one magazine.

Mr. STAFFORD. My point was whether there are not now more stations than are needed for the best interests of the service.

Mr. FOSS. No; there are not.

Mr. STAFFORD. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

Naval magazine, New England coast (Hingham, Mass.): Toward the erection of the necessary buildings on ground the purchase of which is now under negotiation, as authorized by the act approved April 27, 1904, for a new naval magazine on the New England coast, also toward inclosing said grounds, grading and filling in, building roads and walks, improvement on the water front, necessary wharves and cranes, railroad tracks and rolling stock for local service, fire and water service, and equipment of the establishment, $100,000; in all, $100,000.

Mr. FITZGERALD. Mr. Chairman, I reserve the point of order on the paragraph.

Mr. FOSS. On what?

Mr. FITZGERALD. On the paragraph just read.

Mr. FOSS. On the naval magazine on the New England coast?

Mr. FITZGERALD. Yes.

Mr. FOSS. That is already authorized by law and we have already appropriated $400,000 for it.

Mr. FITZGERALD. The paragraph itself says that the land has not been acquired, so that we have not any land on which to erect these buildings—no land to grade. I want some information about it and I shall reserve the point of order.

Mr. ROBERTS. Mr. Chairman, the gentleman from New York is too literal, and he is not familiar with the facts in this particular case. The land acquired for this particular magazine lies part of it on one side of the river and part on the other. The Government has already acquired enough land out of the total tract which they desire to acquire now to begin the construction of buildings, fences, and things like that. I believe there are some small tracts the title to which is still in the courts, but the greater proportion of the land desired has already been acquired.

Mr. FITZGERALD. I am not interested in that particularly.

Mr. ROBERTS. It does away with the gentleman's point of order, however.

Mr. FITZGERALD. What I wish to know is what it is proposed to expend on this naval magazine——

Mr. ROBERTS. Why——

Mr. FITZGERALD. One moment, I have the floor.

Mr. ROBERTS. I thought the gentleman asked for information.

Mr. FITZGERALD. I want to know something about the character of the buildings, what it is intended they shall cost, and what, if any, limit has been in the mind of the committee.

Mr. ROBERTS. If the gentleman will read the act of 1904—April 27—he can get that information without inquiring about it. That act provides the land and buildings shall not exceed $500,000. That is the fundamental act.

Mr. FOSS. And $400,000 has been already appropriated, and that completes it.

Mr. FITZGERALD. This completes it.

Mr. FOSS. Under the appropriation of 1904.

Mr. FITZGERALD. That is the information I desired in the RECORD. I withdraw the point of order.

The Clerk read as follows:

PUBLIC WORKS, MARINE CORPS.

Barracks and quarters, Marine Corps:
To complete the marine garrison, navy-yard, Philadelphia, Pa., one marine barracks, $150,000.

Mr. FITZGERALD. Mr. Chairman, I reserve the point of order on the paragraph, lines 19 to 21, page 32. I desire to inquire what authority there is for the proposed barracks to be erected here.

Mr. FOSS. Mr. Chairman, this is a continuation of work already in progress, and we are providing for an addition to barracks already at Philadelphia.

Mr. FITZGERALD. Under what authority?

Mr. LOUDENSLAGER. The naval station is already there.

Mr. FOSS. This is a regular government navy-yard.

Mr. FITZGERALD. But that is not in order on an appropriation bill.

Mr. ROBERTS. Will the gentleman again state that point?

Mr. FITZGERALD. There are two rulings on the subject—that it is not in order to erect barracks in navy-yards on an appropriation bill.

The CHAIRMAN. Will the gentleman from Illinois point out to the Chair what provision there is in the law authorizing these barracks?

Mr. FOSS. I do not know, Mr. Chairman, there is any provision authorizing these particular barracks. I do not think there is any, but it has been in order to provide barracks or buildings at navy-yards. We already have barracks there for the marines, which are necessary, and this is an extension of those barracks.

Mr. FITZGERALD. Before the gentleman proceeds, let me ask him a question. I notice under "Public works, Marine Corps," provision is made for additional barracks at several places, and later on in the bill is a provision that the marines shall be kept at sea.

Mr. OLCOTT. Oh, no.

Mr. FITZGERALD. I shall read it.

Mr. FOSS. About 2,000 out of 10,000.

Mr. FITZGERALD. I can not put my hand on it at present, but the committee has reported a provision to compel these marines to do some sea duty; at the same time it is providing for very extensive additions to their accommodations on land. I have my own notion as to what should be done with the marines, but I should like to know just what the committee really wants done, whether it wants to keep them on land and provide these additional accommodations or whether it believes they should go to sea and stay there. I could understand the increase in accommodations on land if it were the intention not to have marines do sea duty; but it is difficult to understand why they should have these extensive land accommodations in addition to what they have already if it be the intention to compel all, or a large number of them, to do sea duty.

Mr. OLCOTT. Mr. Chairman, in response to the remarks of my colleague from New York, I will say the provision in regard to putting marines on ships or keeping them on ships applies only to a small percentage of them, perhaps 20 per cent or 25 per cent——

Mr. FITZGERALD. Then what is all this fuss about——

Mr. OLCOTT (continuing). As a matter of absolute fact, the marine barracks or marine quarters in Philadelphia were so inadequate that the marines had to be housed in tents.

Mr. FITZGERALD. It would be better to take them away from Philadelphia.

Mr. OLCOTT. I am predicating my statement on the number of men that will remain providing things exist as they did before the order was made taking the marines off the ships. This is absolutely necessary for the proper habitation of the marines that are in the Philadelphia Navy-Yard.

Mr. FITZGERALD. It may be or it may not.

Mr. OLCOTT. I can only say when I make that assertion that that is what we learned in the hearings from the officers of the navy and officers of the marines who have appeared before us.

Mr. FITZGERALD. I suppose this will be followed up by the recommendation that the marine barracks at New York be abandoned, as has been suggested. After they have built up sufficiently at other places in the country it will be proposed either to abandon the barracks at New York entirely or to build barracks in the district of my colleague from New York [Mr. COCKS], where the zephyrs from Oyster Bay will cool and refresh the members of the Marine Corps.

Mr. OLCOTT. I will say that as long as I am on the Committee on Naval Affairs I think that the gentleman need have no fear that there will be an abandonment of the barracks in his district and in the district of my other colleague.

Mr. FITZGERALD. I do not know what assurance my colleague from New York has, but I wish to say that I have no assurance that he will be on the Naval Committee after the 4th of March.

Mr. OLCOTT. Nor have I.

Mr. FITZGERALD. So his assumption of his ability to be of any particular help, unless it is based upon some information not in my possession, is really of not much value to me.

Mr. FOSS. Does the gentleman withdraw his point of order?

Mr. FITZGERALD. I may withdraw the point of order, but I want sufficient information as to the necessity for these barracks to be given before I do withdraw it.

Mr. OLCOTT. The information is that the barracks are absolutely insufficient for the members of the Marine Corps living in Philadelphia, and they have to live in tents.

Mr. FITZGERALD. How many men will be housed in the building that is to be completed at the expense of $150,000?

Mr. OLCOTT. Four hundred. I will say that these are only wings to the barracks. The building originally cost $200,000 or $250,000 to complete, and this sum is to add wings to the building that is already constructed and which was never completed. The center of the building has been built, and this provision is for the wings to the building.

Mr. TAWNEY. How many men will this accommodate?

Mr. LOUDENSLAGER. Three hundred additional.

Mr. FITZGERALD. The gentleman said 400 to me.

Mr. PADGETT. Colonel Denny stated that it will accommodate 600.

Mr. FITZGERALD. There is a great variety of opinion. It was said in reply to my question that it would accommodate 400, and the reply to the question of the gentleman from Minnesota [Mr. TAWNEY] is 300, and now the gentleman from Tennessee [Mr. PADGETT] says 600.

Mr. PADGETT. If the gentleman will permit, I will read the answer of Colonel Denny, found on page 318 of the hearing:

We have outgrown the one barracks at the League Island yard, and it is suggested here that we build another much like the present one, which would permit about 600 men to be accommodated at the station.

Mr. FITZGERALD. At the station?

Mr. PADGETT. Yes.

Mr. FITZGERALD. But it is not contemplated to abandon the present barracks?

Mr. PADGETT. No; this appropriation is for the purpose of adding wings to the present barracks.

Mr. FITZGERALD. How many men will be accommodated by this $150,000?

Mr. PADGETT. About 300 are accommodated at the present time, so that the increase would be for 300 men. The hearings state:

The CHAIRMAN. How many will be accommodated there now?
Colonel DENNY. About 300.

Mr. FITZGERALD. It seems to me that 300 marines are about all that we should accommodate or make accommodations for at Philadelphia.

Mr. STAFFORD. Will the gentleman permit? I think he should not have any qualms that Philadelphia intends to make an onslaught on New York and withdraw the barracks from that station.

Mr. FITZGERALD. The gentleman misconceives my position.

Mr. STAFFORD. He can not cite in the recent history of the country wherein Philadelphia has had any such design.

Mr. FITZGERALD. There is no rivalry between Philadelphia and New York. What I have in mind is the demoralization of the members of the Marine Corps by being stationed in large numbers at Philadelphia. The gentleman entirely misconceives what I have in mind. The mere fact that some officer thinks that his corps has outgrown accommodations at a particular place is not sufficient justification for me to authorize an addition to marine barracks.

These marine barracks are not complete when you put up the building. There are a number of accessories that will cost to complete the barracks, I suppose, from $50,000 to $75,000. If the department desires additonal buildings, it should give some information as to what the total cost will be to accommodate the additional men.

Mr. STAFFORD. I will read from page 318 of the hearings on the proposition of the gentleman from New York. To a question propounded by Mr. BUTLER, Colonel Denny said:

We have plenty of land there to build on.

Mr. FITZGERALD. That is the misfortune about this navy-yard at Philadelphia. There is so much land there that they have to come every year to get authority to put something on it—to occupy the vacant space. [Laughter.] It would be a benefit to the country if they did not have the land.

Mr. STAFFORD. I question if that condition existed in New York that the gentleman would attach the same objection to it that he does to the yard in Philadelphia. This is an entirely different proposition.

Mr. FITZGERALD. The gentleman was never there; he is simply speaking from what he has heard of it.

Mr. STAFFORD. I lived in Philadelphia for some time, and am quite well acquainted with the conditions there.

Mr. FITZGERALD. That accounts for some of the excellent things I have never understood about the gentleman from Wisconsin. [Laughter.]

Mr. STAFFORD. That also would account for a good many things which the gentleman advocates or opposes in this naval bill, because it might infringe on the navy-yard at New York, which he so ably represents, and which is located in his district.

Mr. FITZGERALD. I do not represent the New York Navy-Yard, Mr. Chairman. I am interested in having all the government plants utilized to the utmost capacity; but until this question of what we shall do with the marines is settled, it seems to me very unwise to be expending, as proposed here, $150,000 at one place and $150,000 at another place, and then to complete the marine garrison at Pearl Harbor, where not a spade has been turned, $135,000, and $50,000 for six officers' quarters. It is proposed to expend for public works in this bill for the Marine Corps close to $500,000. Unless there can be found authority for this appropriation, it will not be made at this time, because I shall insist upon the point of order.

The CHAIRMAN. The Chair will hear the gentleman from Illinois on the point of order.

Mr. FOSS. Mr. Chairman, we have at the present time a marine barracks in the navy-yard at Philadelphia, and I understand that this provides for a wing upon the present barracks now in Philadelphia at this navy-yard. It seems to me, Mr. Chairman, that that is the continuation of a work already in progress.

The CHAIRMAN. Whatever may be the ruling of the Chair upon the item for a wing for the barracks, the Chair can not see how the present item refers to a work previously constructed.

Mr. FOSS. It says to "complete the marine garrison," which is done by the addition of a wing.

Mr. FITZGERALD. Why, "garrison" is the men. They constitute the garrison; the buildings do not constitute the garrison. It has never been held that putting wings on anything is a continuance of a public work in progress. [Laughter.]

Mr. FOSS. I say that the word "garrison" applies to the whole business.

The CHAIRMAN. It seems to the Chair the term "garrison" is not restricted to one marine barracks as a thing now authorized by law, and hence the item is subject to the point of order. Therefore, the Chair sustains the point of order.

Mr. FOSS. Well, now, Mr. Chairman, I offer this provision:

To extend the marine barracks by the addition of a wing thereto, navy-yard, Philadelphia, Pa., $150,000.

Mr. FITZGERALD. I will make the point of order on that.

The CHAIRMAN. Wait until the Clerk has reported the amendment.

The Clerk read as follows:

Insert "To extend the marine barracks, by the addition of a wing, navy-yard, Philadelphia, Pa., $150,000."

The CHAIRMAN. The gentleman from New York makes the point of order.

Mr. FITZGERALD. That is to complete a building and exceeds the limit of cost.

The CHAIRMAN. The Chair would like to ask the gentleman from New York and the gentleman from Illinois if there be a limit of cost upon the barracks?

Mr. FOSS. If there be a limit of cost?

The CHAIRMAN. That is, whether the limit was fixed by law?

Mr. FOSS. No; this will be the total.

The CHAIRMAN. Will the gentleman cite the law under which the barracks were built, so that we can tell?

Mr. FOSS. There was no limit of cost which provided for the marine barracks.

Mr. FITZGERALD. How does the gentleman know, if he has not the act at his hand? He has not seen it for years.

Mr. FOSS. We do not provide for barracks now.

Mr. FITZGERALD. You are here completing something built about thirty years ago.

Mr. FOSS. We have changed the word "complete" to the word "extend," which is a different thing.

The CHAIRMAN. The Chair understands the gentleman from Illinois to say that there was no limit of cost upon the barracks?

Mr. FOSS. There was no limit as to the cost.

Mr. FITZGERALD. Mr. Chairman, I do not like to have the Chair bound by a statement like that.

The CHAIRMAN. The Chair will be glad to obtain information from the gentleman from New York on the subject.

Mr. FITZGERALD. Of course it is not within the possibilities for the gentleman from New York to give information to the Chair, but this is not to be trifled with in that way. The law should be produced if the gentleman is to substantiate his argument.

The CHAIRMAN. But the gentleman says there is no law.

Mr. FITZGERALD. Well, not to be unkind to the gentleman, I doubt whether his recollection is very acute on this matter, or he would state what the law was. These barracks, like other places, were built a great many years ago.

Mr. ROBERTS. No; these are quite recent.

Mr. FITZGERALD. These are not quite recent.

Mr. ROBERTS. I beg to differ with the gentleman.

Mr. FITZGERALD. There are two gentlemen here who come from very near that locality. One of them ought to know when these barracks were built.

Mr. BUTLER. Eight or ten years ago.

The CHAIRMAN. On the statement of the gentleman from Illinois [Mr. Foss], in charge of the bill, the chairman of the committee, that there is no limit of cost fixed in reference to the construction of these barracks, the Chair feels that an amendment proposing to construct an additional wing to the barracks is an item that is in order as a continuation of a public work. The Chair therefore overrules the point of order.

Mr. FITZGERALD. I wish to offer an amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

Mr. FITZGERALD. After the word "thereto" add "at a cost not to exceed $150,000." I think we ought to put some limitation upon the cost of these barracks.

Mr. FOSS. I accept that amendment.

The Clerk read as follows:

Insert, after the word "thereto," the words "at a cost not to exceed $150,000."

The amendment was agreed to.

The CHAIRMAN. The question is on the amendment of the gentleman from Illinois [Mr. Foss] as amended by the gentleman from New York [Mr. FITZGERALD].

The amendment as amended was agreed to.

The Clerk read as follows:

To complete the quartermaster's depot, Philadelphia, Pa., and the purchase of ground adjoining such depot, $25,000.

Mr. FITZGERALD. I reserve a point of order on this paragraph.

Mr. GAINES of Tennessee. I should like some information about this.

Mr. BUTLER. This item in the bill is to complete the quartermaster's depot, Philadelphia, Pa., and the purchase of ground adjoining such depot, $25,000. At the hearing before the committee the chairman said:

I thought we completed that last year.

Colonel DENNY. No; the committee has been very generous with us about that. We have two buildings, two offices, storehouses, and workshops, and we are building a third additional one. When completed, we will have a splendid storehouse there, all we need, where we can make everything we require except arms, practically.

The CHAIRMAN. Will this complete it?

Colonel DENNY. This will complete it.

Mr. PADGETT. I would like to ask about the change of the language here—"Toward the completion of the quartermaster's depot" is simply a continuing proposition. "To complete" is the language that we have heretofore used. Why is it changed?

Colonel DENNY. There was no purpose in adopting the language. There is no reason why it should not be "To" or "Toward," whichever the committee prefers, and I believe, as you have said, that the committee used the word "To" heretofore.

To explain to the gentleman from Tennessee, this is a small piece of ground which the department would like to purchase, alongside of its depot of supplies, for protection to its building, for the purpose of making a small addition to this building, and to get rid of some cheap buildings which crowd up close to it. Our ownership of this ground will protect the government buildings, and the committee feel that in view of the expenditure

which has already been made at that point this is a wise thing to do.

Mr. GAINES of Tennessee. How many acres of land do we now own there?

Mr. BUTLER. I do not know that it would amount to acres. It is on Broad street, Philadelphia, alongside of the old depot of the Philadelphia, Wilmington and Baltimore Railroad Company. It is a very valuable piece of ground, acquired there some years ago. It is where the Marine Corps has its depot from which it draws all its supplies.

Mr. GAINES of Tennessee. Can you tell us about how large it is?

Mr. BUTLER. My colleague, General BINGHAM, may remember how many feet front on Broad street—perhaps two or three hundred.

Mr. BINGHAM. Over 200 feet.

Mr. BUTLER. It runs a considerable depth in the rear. It is one of the most valuable pieces of property the Government owns.

Mr. LOUDENSLAGER. Colonel Denny was asked—

What is the necessity of this additional ground?

He replied—

The way we are now, the north end of the second and third additions now abuts against a little settlement of Italians—very cheap houses that are not fireproof—and our fear was that unless there was a space of, say, 30 or 40 feet our building would not be free from any possible fire in these little shacks.

Mr. GAINES of Tennessee. But have you any testimony that it is worth $25,000?

Mr. BUTLER. No; except the location and the evidence here. There is no doubt in the minds of any of us who know the location.

Mr. GAINES of Tennessee. How much are you going to buy?

Mr. BINGHAM. Let me state, for the benefit of the gentleman from Tennessee, that there has been expended in this quartermaster's establishment almost half a million dollars. It is one of the handsomest and most useful buildings in the entire service. Now, this small section of ground in the rear is absolutely necessary for the convenience of loading and unloading. They can build up to the present line and render the present building practically useless. We want to get possession of this small piece of ground on account of its great usefulness to the building.

Mr. GAINES of Tennessee. How large a piece of land is it?

Mr. BUTLER. Between 30 and 40 feet front on the street, and runs at right angles from Broad street.

Mr. GAINES of Tennessee. What evidence have you that it is worth $25,000?

Mr. BUTLER. It is not quite in the heart of the city, but within 10 or 15 squares of the Broad Street Station. Land is very valuable there, but the buildings adjoining the government building are poor.

Mr. GAINES of Tennessee. I will ask the chairman of the committee if he has any information about it?

The CHAIRMAN. The time of the gentleman has expired.

Mr. GAINES of Tennessee. There seems to be no evidence of the value of the land. Of course, if it is worth $25,000, that is one proposition; but if it is worth less than that, that is another. There is no evidence what it is worth. I ask unanimous consent that the gentleman's time be extended for five minutes, and that he confine himself to the evidence of the value.

The CHAIRMAN. The gentleman from Tennessee asks that the time of the gentleman be extended five minutes. Is there objection?

There was no objection.

Mr. BUTLER. The chairman of the committee said to Colonel Denny:

What does that $25,000 go for?

Colonel Denny replied:

That is for the purpose of building the interior arrangements in the last addition authorized last year—elevators, electric machines for operatives, fire escapes, shelving for supplies, etc.

Mr. PADGETT. If the gentleman will turn to page 320, he will find that he says it was to purchase two small lots, at $4,000 each, making $8,000, and that the remainder goes for fixing up and improving the building.

Mr. GAINES of Tennessee. How much is to be used for the fixing up?

Mr. BUTLER. About $17,000.

Mr. GAINES of Tennessee. The balance is to go for land?

Mr. BUTLER. Yes; $8,000 for 30 or 40 feet on the street. Two lots, $4,000 each, covering 30 or 40 feet.

Mr. PADGETT. And about 200 feet long.

Mr. GAINES of Tennessee. What do they say about the value?

Mr. LOUDENSLAGER. The value was fixed by three trust companies.

Mr. GAINES of Tennessee. What do they say about it?

Mr. LOUDENSLAGER. They say that the lots were worth $4,000 each. That is the estimate given to us by the real estate experts of three big trust companies in Philadelphia.

The CHAIRMAN. Does the gentleman from New York withdraw his point of order?

Mr. FITZGERALD. After the explanation that has been made I withdraw the point of order.

The Clerk read as follows:

To complete the marine garrison, navy-yard, Bremerton, Wash., one marine barracks, $150,000; in all, $150,000.

Mr. FITZGERALD. Mr. Chairman, I reserve a point of order to that paragraph.

Mr. FOSS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. MANN, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 26394, the naval appropriation bill, and had come to no resolution thereon.

COMMISSIONS TO RETIRED ARMY OFFICERS WITH INCREASED RANK.

Mr. HULL of Iowa. Mr. Speaker, I submit a conference report on the bill (S. 653) to authorize commissions to issue in the cases of officers of the army retired with increased rank. I ask unanimous consent that we may dispose of it to-night instead of first printing it in the RECORD under the rule. There is only one little item in it. It is for commissions to officers on the retired list having increased rank. It does not give them any more pay or rank, but simply a commission. As it passed the House it applied to the army and the navy and the Marine Corps, and in the Senate they had the Revenue-Cutter Service put in to apply to those who retired under the provisions of the law a year ago, as referred to by the gentleman from Illinois [Mr. MANN]. I wish to say that he was exactly right at that time, and I was wrong. It now applies to the Revenue-Cutter Service so that those who retired a year ago get a commission for the increased rank.

Mr. WILLIAMS. What is the request for unanimous consent?

Mr. HULL of Iowa. Simply that we agree to the report of the conference committee instead of printing it under the rules.

Mr. FITZGERALD. What is the necessity for this haste?

Mr. HULL of Iowa. There is no particular necessity, only it saves taking the time of the House to call it up and print it and go through the same performance.

Mr. CLARK of Missouri. Does it raise anybody's salary?

Mr. HULL of Iowa. It does not.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

The conference report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 653) to authorize commissions to issue in the cases of officers of the army retired with increased rank, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate to the amendments of the House and agree to the same.

J. A. T. HULL,
A. B. CAPRON,
JAMES HAY,
Managers on the part of the House.
F. E. WARREN,
N. B. SCOTT,
JAS. P. TALIAFERRO,
Managers on the part of the Senate.

DESERTERS FROM NAVAL SERVICE.

The SPEAKER laid before the House the bill (S. 5473) to authorize the Secretary of the Navy in certain cases to mitigate or remit the loss of rights of citizenship imposed by law upon deserters from the naval service, with a House amendment thereto, disagreed to.

Mr. ROBERTS. Mr. Speaker, I move that the House insist on its amendment to the Senate bill and agree to the conference asked for by the Senate.

The motion was agreed to.

The Chair announced the following conferees: Mr. ROBERTS, Mr. DAWSON, and Mr. PADGETT.

COMMITTEE APPOINTMENTS.

The Chair announced the following appointment on the Committee on Claims, vice Mr. Lilley: Mr. WOOD.

The Chair laid before the House the following:

The Clerk read as follows:

WILKESBORO, N. C., *January 19, 1909.*

Hon. JOSEPH G. CANNON,
Speaker House of Representatives,
Washington, D. C.

DEAR SIR: I respectfully tender my resignation as a member of the Committee on Invalid Pensions, to take effect immediately.

Yours, very truly,

R. V. HACKETT.

The SPEAKER. Without objection, Mr. HACKETT will be relieved from further service on the committee. Is there objection?

There was no objection.

The Chair announced the following committee appointment: Committee on Invalid Pensions, Mr. RUSSELL of Missouri.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. SAUNDERS, indefinitely on account of illness in his family.

FINAL REPORT JAMESTOWN TERCENTENNIAL COMMISSION.

The SPEAKER laid before the House the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Industrial Arts and Expositions and ordered printed.

To the Senate and House of Representatives:

In compliance with the provisions of the acts of Congress approved March 3, 1905, and June 30, 1906, respectively, I submit herewith the final report of the Jamestown Tercentennial Commission, embodying the reports of various officers of the Jamestown Exposition, held at Norfolk, Va., in 1907.

It is recommended by the commission that if the report is published as a public document the illustrations be included. If it should be so published, I would recommend that a sufficient sum be authorized from the unexpended balance remaining in the appropriation of $50,000 for expenses of the Jamestown Tercentennial Commission to cover the expense of printing 2,000 copies, 500 for the Senate, 1,000 for the House of Representatives, and 500 for distribution to public libraries throughout the country.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *January 20, 1909.*

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolution of the following titles, when the Speaker signed the same:

H. J. Res. 216. Joint resolution for a special Lincoln postage stamp;

H. R. 23863. An act for the exchange of certain lands situated in the Fort Douglas Military Reservation, State of Utah, for the lands adjacent thereto, between the Mount Olivet Cemetery Association, of Salt Lake City, Utah, and the Government of the United States; and

H. R. 24344. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the civil war, and to widows and dependent relatives of such soldiers and sailors.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bill:

H. R. 23713. An act authorizing the construction of a bridge across Current River, in Missouri.

SENATE BILLS REFERRED.

Under clause 2, Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 8254. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain dependent relatives of such soldiers and sailors—to the Committee on Invalid Pensions.

S. 8422. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and to widows and dependent relatives of such soldiers and sailors—to the Committee on Invalid Pensions.

INTERNATIONAL TUBERCULOSIS CONGRESS.

The SPEAKER laid before the House the following message from the President of the United States (S. Doc. No. 671), which was read and, with the accompanying papers, referred to the Committee on Public Buildings and Grounds and ordered printed.

To the Senate and House of Representatives:

I transmit herewith for the information of the Congress a communication from the Secretary of the Smithsonian Institution, together with reports from the superintendent of construction of the new National Museum building, the disbursing agent of the institution, and the secretary-general of the International Tuberculosis Congress, as to the details of the work done by the Smithsonian Institution in fitting up the building for the meeting of said congress and the results accomplished by the congress.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *January 20, 1909.*

EXTENDING REMARKS IN THE RECORD.

Mr. COX of Indiana. Mr. Speaker, I ask unanimous consent to extend some remarks in the RECORD which I made this afternoon while the House was in Committee of the Whole.

The SPEAKER. Is there objection?

There was no objection.

OUTWARD ALIEN MANIFESTS.

Mr. GARDNER of Massachusetts. Mr. Speaker, I ask unanimous consent that the minority of the committee may have three days within which to file an adverse report on the bill (S. 7785) relative to outward alien manifests of certain vessels, which bill I am about to report.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent that the minority may have three days within which to submit their views on the bill referred to. Is there objection?

There was no objection.

ADJOURNMENT.

Then (at 5 o'clock and 17 minutes p. m.), on motion of Mr. Foss, the House adjourned.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of War, transmitting recommendations of relief for Mrs. Leona Sugui (H. Doc. No. 1351)—to the Committee on Claims and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of Commerce and Labor submitting an estimate of appropriation for the Light-House Establishment (H. Doc. No. 1352)—to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of Commerce and Labor, transmitting a report on the German iron and steel industry, by Special Agents Charles M. Pepper and A. M. Thackara (H. Doc. No. 1353)—to the Committee on Interstate and Foreign Commerce and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. ALEXANDER of New York, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 24135), to amend an act entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1896, and for other purposes," reported the same with amendment, accompanied by a report (No. 1883), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill of the House (H. R. 19655), providing for an additional judge for the southern district of New York, and for other purposes, reported the same without amendment, accompanied by a report (No. 1884), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HOWLAND, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 24833) to declare and enforce the forfeiture provided by section 4 of the act of Congress approved March 3, 1875, entitled "An act granting to railroads the right of way through the public lands of the United States," reported the same without amendment, accompanied by a report (No. 1885), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HULL of Iowa, from the Committee on Military Affairs, to which was referred the joint resolution of the House (H. J. Res. 226) authorizing the Secretary of War to loan certain tents for use at the festival encampment of the North American Gymnastic Union, to be held at Cincinnati, Ohio, in June, 1909,

reported the same without amendment, accompanied by a report (No. 1890), which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

Mr. DENBY, from the Committee on Foreign Affairs, to which was referred the bill of the Senate (S. 7992) to amend an act entitled "An act to provide for participation by the United States in an international exposition to be held at Tokyo, Japan, in 1912," approved May 22, 1908, reported the same with amendment, accompanied by a report (No. 1892), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MONDELL, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 24835) authorizing the necessary resurvey of public lands, reported the same with amendment, accompanied by a report (No. 1886), which said bill and report were referred to the House Calendar.

Mr. STERLING, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 3884) to authorize the Secretary of the Treasury to issue duplicate gold certificates in lieu of ones lost or destroyed, reported the same with amendment, accompanied by a report (No. 1889), which said bill and report were referred to the House Calendar.

Mr. GARDNER of Massachusetts, from the Committee on Immigration and Naturalization, to which was referred the bill of the Senate (S. 7785) relative to outward alien manifests on certain vessels, reported the same with amendment, accompanied by a report (No. 1893), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. AMES, from the Committee on Pensions, to which was referred the bill of the House (H. R. 26746) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the civil war, and to widows and dependent relatives of such soldiers and sailors, reported the same without amendment, accompanied by a report (No. 1891), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 14698) granting a pension to Emma M. Heines—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 24531) granting a pension to Fred M. Jones—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 26650) granting a pension to Fred Meyer—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 26651) granting a pension to Charles Dillon—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 26687) granting a pension to Oscar S. Thornton—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 26702) granting a pension to William L. Zweiger—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 26717) to remove the charge of desertion from the record of George Whitmore—Committee on Invalid Pensions discharged, and referred to the Committee on Military Affairs.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. COOPER of Texas: A bill (H. R. 26727) to provide for improving the navigable capacity of Sabine and Neches rivers and of the channel connecting Sabine and Neches rivers with the mouth of Taylors Bayou—to the Committee on Rivers and Harbors.

By Mr. JENKINS: A bill (H. R. 26728) authorizing the President to classify assistant postmasters—to the Committee on the Post-Office and Post-Roads.

By Messrs. GREGG, COOPER of Texas, and MOORE of Texas: A bill (H. R. 26729) to provide for the selection of a site for the establishment of a navy-yard and dry dock on or near Sabine Pass, the Neches or Sabine River, Galveston Harbor or Galveston Bay, or San Jacinto Bay, or on Buffalo Bayou or Galveston-Houston Ship Channel, in the State of Texas—to the Committee on Naval Affairs.

By Mr. LINDBERGH: A bill (H. R. 26730) extending the time for the construction of a dam across the Mississippi River, State of Minnesota—to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of California: A bill (H. R. 26731) to authorize the Chucawalla Development Company to build a dam across the Colorado River near Parker, Ariz.—to the Committee on Interstate and Foreign Commerce.

By Mr. PUJO: A bill (H. R. 26732) for the construction of an interstate inland waterway, and appropriating $300,000 therefor—to the Committee on Rivers and Harbors.

Also, a bill (H. R. 26733) authorizing a survey and estimate of an interstate inland waterway 9 feet in depth and 100 feet in width, from the Mississippi River, in Louisiana, to the Rio Grande River, in Texas—to the Committee on Rivers and Harbors.

By Mr. MONDELL: A bill (H. R. 26734) to permit change of entry in case of mistake of the description of tracts intended to be entered—to the Committee on the Public Lands.

By Mr. MOORE of Texas: A bill (H. R. 26735) for the erection of a federal building for the post-office at Navasota, Tex.—to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26736) to provide for a public building at Huntsville, Tex.—to the Committee on Public Buildings and Grounds.

By Mr. DAVIS: A bill (H. R. 26737) to cooperate with the States in encouraging instruction in farming and home making in agricultural secondary schools with branch experiment stations, instruction in the nonagricultural industries and in home making in city secondary schools, and in providing teachers for these vocational subjects in state normal schools, and to appropriate money therefor and to regulate its expenditure—to the Committee on Agriculture.

By Mr. SMITH of Michigan: A bill (H. R. 26738) to regulate the licensing of builders in the District of Columbia, and for other purposes—to the Committee on the District of Columbia.

By Mr. HALL: A bill (H. R. 26739) authorizing the creation of a land district in the State of South Dakota, to be known as the "Le Beau land district"—to the Committee on the Public Lands.

By Mr. WEISSE: A bill (H. R. 26740) for a resurvey and improvement of Port Washington Harbor, Wisconsin—to the Committee on Rivers and Harbors.

Also, a bill (H. R. 26741) to provide for the further improvement of the harbor of Sheboygan, Wis.—to the Committee on Rivers and Harbors.

By Mr. JENKINS: A bill (H. R. 26742) to amend section 996 of the Revised Statutes of the United States as amended by the act of February 19, 1897—to the Committee on the Judiciary.

By Mr. KALANIANAOLE: A bill (H. R. 26743) for the establishment of a light-house on the island of Hawaii, Territory of Hawaii—to the Committee on Interstate and Foreign Commerce.

By Mr. ENGLEBRIGHT: A bill (H. R. 26744) requiring the Secretary of the Interior to submit estimates of proposed expenditures from the reclamation fund for the ensuing fiscal year to the Secretary of the Treasury, to be published in the Book of Estimates—to the Committee on Irrigation of Arid Lands.

By Mr. GILL (by request): A bill (H. R. 26745) requiring the branding of hermetically sealed oyster cans with the net weight of the oyster meat contained therein, and other provisions relating thereto—to the Committee on Interstate and Foreign Commerce.

By Mr. BRODHEAD: A bill (H. R. 26747) to amend the Code of Law for the District of Columbia regarding corporations—to the Committee on the District of Columbia.

By Mr. CHANEY: A bill (H. R. 26748) to provide for two judicial districts in Indiana; to establish in each of said districts judicial divisions and designating the places for holding court in each of said divisions; authorizing the appointment of a judge, district attorney, marshal, and clerk for one of said districts, and for other purposes connected therewith—to the Committee on the Judiciary.

By Mr. GARDNER of Massachusetts: A bill (H. R. 26825) to extend a street from Nineteenth street NW., near U street, westward to Columbia road—to the Committee on the District of Columbia.

By Mr. FOSTER of Illinois: Joint resolution (H. J. Res. 241) to authorize the Secretary of War to furnish one condemned bronze cannon and cannon balls to the city of Robinson, Ill.—to the Committee on Military Affairs.

By Mr. WOOD: Joint resolution (H. J. Res. 242) for a survey of the Delaware River from Philadelphia to Ferry street, in the city of Trenton, N. J.—to the Committee on Rivers and Harbors.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 26749) granting a pension to Ward L. Roach—to the Committee on Invalid Pensions.

By Mr. BARNHART: A bill (H. R. 26750) granting an increase of pension to Levi C. Smith—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26751) granting an increase of pension to Lewis H. Fielding—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26752) granting an increase of pension to J. J. Babcock—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26753) granting an increase of pension to John Willford—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26754) granting an increase of pension to James W. Titus—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26755) granting a pension to Jacob Bell—to the Committee on Invalid Pensions.

By Mr. BOYD: A bill (H. R. 26756) granting an increase of pension to John M. Mills—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26757) granting an increase of pension to Ezra W. Myers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26758) granting an increase of pension to William H. Widaman—to the Committee on Invalid Pensions.

By Mr. BRODHEAD: A bill (H. R. 26759) granting an increase of pension to Andrew J. Roloson—to the Committee on Invalid Pensions.

By Mr. CAMPBELL: A bill (H. R. 26760) granting an increase of pension to Hubbard D. Carr—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26761) granting an increase of pension to Thomas C. Bird—to the Committee on Invalid Pensions.

By Mr. COOPER of Wisconsin: A bill (H. R. 26762) for the relief of Pedro Mangalindan, Basilio Baltazar, and Julio Lacsamana—to the Committee on Insular Affairs.

By Mr. COX of Indiana: A bill (H. R. 26763) granting an increase of pension to James H. Watkin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26764) granting an increase of pension to Addison N. Thomas—to the Committee on Invalid Pensions.

By Mr. DAVENPORT: A bill (H. R. 26765) granting a pension to Susannah M. Magee—to the Committee on Invalid Pensions.

By Mr. DWIGHT: A bill (H. R. 26766) granting an increase of pension to Marvin A. Smith—to the Committee on Invalid Pensions.

By Mr. FASSETT: A bill (H. R. 26767) granting an increase of pension to Edward W. Hawley—to the Committee on Invalid Pensions.

By Mr. FOELKER: A bill (H. R. 26768) granting an increase of pension to John Bennett—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26769) to remove the charge of desertion from the military record of John Wassily—to the Committee on Military Affairs.

By Mr. FOSTER of Illinois: A bill (H. R. 26770) granting an increase of pension to Hector G. Daniel—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26771) granting an increase of pension to Henry Ginnett—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26772) granting an increase of pension to Edmond W. Spear—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26773) granting an increase of pension to James A. Ashmore—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26774) granting an increase of pension to David Bowers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26775) granting a pension to J. L. Hull—to the Committee on Pensions.

Also, a bill (H. R. 26776) granting a pension to A. H. Pettibone—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26777) to remove charge of desertion from the record of Jacob Morrison—to the Committee on Military Affairs.

By Mr. FULLER: A bill (H. R. 26778) granting an increase of pension to George H. Merrill—to the Committee on Invalid Pensions.

By Mr. GAINES of West Virginia: A bill (H. R. 26779) granting a pension to Taylor Hyre—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26780) granting an increase of pension to Silas Hunley—to the Committee on Invalid Pensions.

By Mr. GARDNER of Michigan: A bill (H. R. 26781) granting an increase of pension to Albert Perring—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26782) granting an increase of pension to Alonzo Parmalee—to the Committee on Invalid Pensions.

By Mr. GILL: A bill (H. R. 26783) granting a pension to Peter Kleser—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26784) granting a pension to Francis S. Torback—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26785) granting a pension to Mary Muller—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26786) granting an increase of pension to Susan V. French—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26787) for the relief of Henry Ginst—to the Committee on Military Affairs.

By Mr. HAGGOTT: A bill (H. R. 26788) to remove the charge of desertion from the military record of Francis A. Land and to grant him an honorable discharge—to the Committee on Military Affairs.

By Mr. HALL: A bill (H. R. 26789) granting an increase of pension to James Thomas—to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 26790) granting an increase of pension to Albert G. Rockfellow—to the Committee on Pensions.

By Mr. HITCHCOCK: A bill (H. R. 26791) granting an increase of pension to John Gorman—to the Committee on Invalid Pensions.

By Mr. HOWELL of Utah: A bill (H. R. 26792) granting an increase of pension to John F. Wilcox—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26793) granting an increase of pension to Sarah A. Robertson—to the Committee on Pensions.

Also, a bill (H. R. 26794) for the relief of William P. Alexander—to the Committee on Claims.

Also, a bill (H. R. 26795) granting a pension to William Banks—to the Committee on Pensions.

By Mr. HUGHES of West Virginia: A bill (H. R. 26796) granting an increase of pension to William Tucker—to the Committee on Invalid Pensions.

By Mr. ADDISON D. JAMES: A bill (H. R. 26797) granting a pension to Laura B. Adams—to the Committee on Invalid Pensions.

By Mr. JOHNSON of Kentucky: A bill (H. R. 26798) for the relief of F. H. McGehee—to the Committee on War Claims.

By Mr. KENNEDY of Iowa: A bill (H. R. 26799) granting an increase of pension to David A. Kerr—to the Committee on Invalid Pensions.

By Mr. KINKAID: A bill (H. R. 26800) granting an increase of pension to John G. Richardson—to the Committee on Invalid Pensions.

By Mr. KNOWLAND: A bill (H. R. 26801) granting an increase of pension to James P. Fraser, jr.—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26802) granting an increase of pension to Augustus W. Schreiber—to the Committee on Pensions.

By Mr. LOWDEN: A bill (H. R. 26803) granting an increase of pension to James C. Goldthrop—to the Committee on Invalid Pensions.

By Mr. McCALL: A bill (H. R. 26804) granting an increase of pension to Mary Sheridan—to the Committee on Invalid Pensions.

By Mr. McCREARY: A bill (H. R. 26805) granting an increase of pension to Thomas Neely—to the Committee on Invalid Pensions.

By Mr. MACON: A bill (H. R. 26806) granting an increase of pension to John Tisdiel—to the Committee on Invalid Pensions.

By Mr. MADISON: A bill (H. R. 26807) granting an increase of pension to James F. McDowell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26808) granting an increase of pension to Milo P. Parker—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26809) for the relief of William Walters—to the Committee on Military Affairs.

By Mr. OLMSTED: A bill (H. R. 26810) granting a pension to Charles E. Stock—to the Committee on Pensions.

By Mr. PRATT: A bill (H. R. 26811) granting a pension to William Garfield—to the Committee on Invalid Pensions.

By Mr. RICHARDSON: A bill (H. R. 26812) for the relief of Littleton McCloud and Bill Mull—to the Committee on War Claims.

By Mr. ROBINSON: A bill (H. R. 26813) for the relief of the heirs of G. W. Morris—to the Committee on War Claims.

Also, a bill (H. R. 26814) granting a pension to Phoebe A. Montgomery—to the Committee on Invalid Pensions.

By Mr. WANGER: A bill (H. R. 26815) granting an increase of pension to Charles P. Egbert—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26816) for the relief of H. J. Randolph Hemming—to the Committee on Claims.

By Mr. WILEY: A bill (H. R. 26817) to correct the military record of John Sanspree—to the Committee on Military Affairs.

By Mr. WILSON of Pennsylvania: A bill (H. R. 26818) granting an increase of pension to Susan C. Long—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26819) granting an increase of pension to Jennie K. Noll—to the Committee on Invalid Pensions.

By Mr. WOOD: A bill (H. R. 26820) granting an increase of pension to James V. D. Ten Eyck—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26821) granting an increase of pension to Gertrude E. Snook—to the Committee on Invalid Pensions.

By Mr. LINDBERGH: A bill (H. R. 26822) granting an increase of pension to George P. Wassman—to the Committee on Invalid Pensions.

By Mr. BRADLEY: A bill (H. R. 26823) granting an increase of pension to Charles M. Everett—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26824) granting an increase of pension to John D. Oakley—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of G. W. Schwab and others, of Tuscarawas County, Ohio, against passage of Senate bill 3940—to the Committee on the District of Columbia.

By Mr. BELL of Georgia: Paper to accompany bill for relief of William A. Senkbeil—to the Committee on Pensions.

By Mr. BURKE: Petition of Anti-Saloon League of America, against absolute prohibition in the District of Columbia and favoring S. 7305—to the Committee on the District of Columbia.

Also, petition of Lumbermen's Club of Memphis, Tenn., against reduction of tariff on lumber—to the Committee on Ways and Means.

Also, petition of New Orleans Cotton Exchange, favoring investigation by the Secretary of Agriculture into the use and substitution of raw cotton for other material in various manufactures and report on same—to the Committee on Agriculture.

By Mr. BURLEIGH: Petition of members of East Madison Grange, Maine, favoring Senate bills 5122 and 6484, for parcels post and postal savings banks—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Hartland, Palmyra, and Pittsfield, Me., against S. 3940 (Johnston Sunday law)—to the Committee on the District of Columbia.

By Mr. BURLESON: Petition of business men of Brenham, Tex., against parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

By Mr. CALDER: Paper to accompany bill for relief of Sarah A. Foley—to the Committee on Invalid Pensions.

Also, petition of K. Turpedo, of Brooklyn, N. Y., favoring repeal of duty on raw and refined sugars—to the Committee on Ways and Means.

Also, petition of Federation of Jewish Organizations, for appointment of Jewish chaplains for the soldiers and sailors of Jewish faith in army and navy—to the Committee on Military Affairs.

By Mr. CARLIN: Paper to accompany bill for relief of Emma M. Heins (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

By Mr. CHANEY: Petition of W. W. Claycomb and others, of Monroe City, Ind., against parcels post on rural free-delivery routes and postal savings banks—to the Committee on the Post-Office and Post-Roads.

Also, paper to accompany bill for relief of George W. Duning (previously referred to the Committee on Invalid Pensions)—to the Committee on Military Affairs.

By Mr. COCKRAN: Paper to accompany bill for relief of John J. Friel—to the Committee on Pensions.

Also, paper to accompany bill for relief of Philip Thompson—to the Committee on Pensions.

By Mr. COOK: Petition of Lumbermen's Club of Memphis, against reduction of the tariff on lumber—to the Committee on Ways and Means.

Also, petition of Courtland Sanders Post, Grand Army of the Republic, against abolition of pension agencies throughout the country—to the Committee on Invalid Pensions.

Also, petition of board of directors of the New Orleans Cotton Exchange, favoring investigation by the Secretary of Agriculture into the use and substitution of raw cotton for other articles in various manufactures in the United States and a report thereon—to the Committee on Agriculture.

Also, petition of Retail Grocers' Association, favoring reduction of duty on olives—to the Committee on Ways and Means.

By Mr. DAVENPORT: Paper to accompany bill for relief of Susannah M. Magee—to the Committee on Invalid Pensions.

By Mr. DAVIS: Petition of Adler & Vickstadt and other business men of Red Wing, Minn., against establishment of postal savings banks and a parcels post—to the Committee on the Post-Office and Post-Roads.

Also, petition of Warsaw Farmers' Institute, favoring the Davis agricultural high school bill—to the Committee on Agriculture.

Also, petition of Nicollet-Lesueur County Medical Society, favoring establishment of a department of public health—to the Committee on Interstate and Foreign Commerce.

By Mr. DRAPER: Petition of Lumbermen's Club of Memphis, Tenn., against reduction of the tariff on lumber—to the Committee on Ways and Means.

Also, petition of New Orleans Cotton Exchange, favoring investigation by the Secretary of Agriculture into the use and substitution of raw cotton for other materials of manufacture and report thereon—to the Committee on Agriculture.

By Mr. ELLIS of Missouri: Papers to accompany bills for relief of Charles Sells (H. R. 24522) and Henry Norris (H. R. 24520) (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

By Mr. ESCH: Petition of La Crosse Manufacturers and Jobbers' Union, against parcels post on rural delivery routes and establishment of postal savings banks—to the Committee on the Post-Office and Post-Roads.

Also, petition of Manufacturers Club of Buffalo, N. Y., favoring H. R. 22901, 22902, and 22903, all relative to authority of Interstate Commerce Commission touching changes in freight rates—to the Committee on Interstate and Foreign Commerce.

By Mr. FOCHT: Petition of Lock Grange, No. 1094, Patrons of Husbandry, favoring establishment of parcels post and postal savings banks (S. 5122 and 6484)—to the Committee on the Post-Office and Post-Roads.

By Mr. FOELKER: Petition of Bar Association of New York City, favoring increase of salaries of United States judges—to the Committee on the Judiciary.

By Mr. FULLER: Paper to accompany bill for relief of George H. Merrill—to the Committee on Invalid Pensions.

By Mr. GRAFF: Petition of Peoria Division, No. 79, Order of Railway Conductors, favoring educational test for immigrants and better sanitary conditions on transport ships—to the Committee on Immigration and Naturalization.

By Mr. GRAHAM: Petition of coal operators of the Pittsburg district, favoring creation of a bureau of mines—to the Committee on Mines and Mining.

Also, petition of New Orleans Cotton Exchange, for investigation by the Secretary of Agriculture into substitution and use of cotton for other materials in manufacturing and report on same—to the Committee on Agriculture.

By Mr. GRONNA: Petition of citizens of Rugby, Berwick, and Towner, N. Dak., against passage of the Johnston Sunday-rest bill (S. 3940)—to the Committee on the District of Columbia.

By Mr. HINSHAW: Petition of business men of Shickley, Fairmont, Exeter, Valparaiso, Wahoo, Yutan, Dorchester, Geneva, and Davenport, Nebr., against parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

By Mr. HOUSTON: Paper to accompany bill for relief of Augustus W. Patterson (H. R. 26014)—to the Committee on Invalid Pensions.

By Mr. HOWLAND: Petition of citizens of Medina, Ohio, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Leroy, Lake County, Ohio, favoring postal savings banks and parcels-post laws—to the Committee on the Post-Office and Post-Roads.

By Mr. HUBBARD of West Virginia: Paper to accompany bill for relief of Margaret Miner (H. R. 26343)—to the Committee on Invalid Pensions.

Also, petition of Clarksburg (W. Va.) Board of Trade, against all legislation tending to continue agitation against corporate interests, etc.—to the Committee on Interstate and Foreign Commerce.

By Mr. LINDSAY: Petition of East Washington Citizens'